

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,

Plaintiff

v.

PAUL EVANKO, MARK
CAMPBELL, THOMAS
COURY, JOSEPH
WESTCOTT, HAWTHORNE
CONLEY

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No. 1:CV-01-0084
(Judge Caldwell)

CIVIL ACTION – LAW

JURY TRIAL DEMANDED

FILED
HARRISBURG, PA

MAY 21 2002

MARY E DIANDREA, CLERK
Per Deputy Clerk

**EXHIBITS TO THE DEFENDANTS' BRIEF IN SUPPORT
OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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STATE OF Pennsylvania

COUNTY OF Dauphin

AFFIDAVIT

I, Klaus Behrens, swear and affirm the following:

1. My name is Klaus D. Behrens and I am a retired Pennsylvania State Police (PSP) Captain. Just prior to my retirement in 1998, I served as the Administrative Director for the Bureau of Drug Law Enforcement.
2. Before being assigned to the Bureau of Drug Law Enforcement, I was the Western Section Commander for the Bureau of Professional Responsibility (BPR), Internal Investigation Unit. I served in that capacity from the beginning of 1996 until June 28, 1997. My office was located in Greentree, Pennsylvania.
3. During the time I spent as Western Section Commander with BPR, I was contacted by FBI Agent Ralph Kush on January 30, 1997, relative to an investigation the FBI was conducting involving a PSP Trooper, Kipp Stanton, and a job-selling scheme.
4. Agent Kush told me that they had information to believe that Trooper Kipp Stanton had approached an individual and offered to pay him ten thousand dollars to get a friend into the Pennsylvania State Police. Agent Kush wanted to know if the State Police were involved in any type of political sting investigation that Stanton might be involved with and he asked me to make appropriate inquiries to determine if this were so.
5. Pursuant to Agent Kush's request, I determined that Trooper Stanton was assigned to Troop A. I then contacted Captain Pudliner, who was the Troop Commander of Troop A at the time to ascertain if Stanton might be involved in any type of sting or undercover investigation. I also spoke to Lieutenant McKnight, the Crime Section Commander at Troop A, and Jean Reidenbaugh, a Trooper assigned to the General Investigations Section of the Bureau of Criminal Investigation about the same topic.
6. On February 3, 1997, I contacted Kush and informed him that the State Police was not involved in any sting or other investigation regarding Trooper Stanton. I also spoke to Captain Geoff Miller, my supervisor in BPR, to inform him of the FBI investigation.

7. Special Agent Kush mentioned only the name of Trooper Kipp Stanton as being involved in the illegal job-selling scheme. He did not mention that anyone else in the Department was involved in this scam, nor did he mention anyone from the Governor's office, a Deputy Commissioner, or any high-ranking officer of the Pennsylvania State Police as having possible involvement in this job-selling scheme.
8. Special Agent Kush did not request me to keep the information on Trooper Stanton "top secret" or "highly confidential."
9. I had no further contact with Agent Kush regarding this investigation.
10. I considered the call from Agent Kush as a request to assist a federal agency with its investigation and once I made the contacts described above, I had no further involvement in this matter.

Klaus D. Behrens

Captain Klaus D. Behrens
(PSP, Retired)

Sworn to and subscribed before me this

17 Day of May 2002

Deborah D. Lukacs

Notary Public
My Commission Expires:

Notarial Seal
Deborah D. Lukacs, Notary Public
Cumberland Twp., Greene County
My Commission Expires Jan. 23, 2004
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF LINDA M. BONNEY

I, LINDA M. BONNEY, swear and affirm the following:

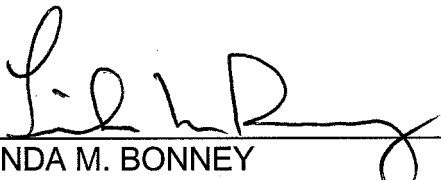
1. I am currently the Director of the Bureau of Human Resources for the Pennsylvania State Police.
2. I am a records custodian for all personnel records of the Pennsylvania State Police.
3. In preparation for this affidavit, I reviewed Capt. Darrell Ober's personnel file, including his job description and the identification of his essential job functions, when he was the Director of the Internal Affairs Division of the Bureau of Professional Responsibility. Copies of both the job description and the essential job functions are attached hereto and identified as Attachments (a) & (b).
4. Block 6 of Capt. Ober's job description describes his work when he was the Director of the Internal Affairs Division, and lists his critical duties and responsibilities first. Part of the information in this block reads as follows: "The Division is responsible for the investigation of internally and externally generated complaints regarding personnel conduct and performance; non-complaint investigations; assisting

the Office of Chief Counsel and conducting other investigations as directed by the Commissioner". (emphasis added).

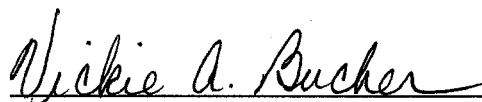
5. On page three of Capt. Ober's job description when he was Director of the Internal Affairs Division, there is a table of organization which explains who the supervisor is for the Director of the Internal Affairs Division. This chart verifies that Capt. Ober was to report directly to the Director of the Bureau of Professional Responsibility. This reporting information is also found in block five of the first page of the job description, which indicates that Capt. Ober reported to Major R. Dane Merryman, who was the Director of the Bureau of Professional Responsibility at the time this job description was prepared.

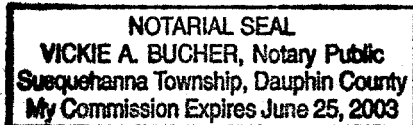
6. In the document labeled "Identification of Essential Job Functions", which was prepared to identify the essential job tasks for Capt. Ober when he was the Director of the Bureau of Professional Responsibility, paragraph (1) reads as follows: "Supervises the Internal Affairs Division, responsible for the investigation of internally and externally generated complaints regarding personnel conduct and performance; non-complaint investigations; assisting the Office of Chief Counsel, as well as conducting other investigations as directed by the Commisisoner." (emphasis added).

7. Capt. Ober would have been aware of the duties and responsibilities of his job as Internal Affairs Director, because he was required to sign his job description, and in fact did so on June 8, 1998.


LINDA M. BONNEY
Director, Bureau of Human Resources
Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002


Notary Public



COMMONWEALTH OF PENNSYLVANIA STATE POLICE		JOB DESCRIPTION		0484		
1. Name of Employee (Last, First, MI) OBER, Darrell G.			2. Employee Number 099820		Position Number 104566	
3. Department State Police	Bureau Professional Responsibility	Division Internal Affairs		Headquarters DHQ	Organization Code 7310	
4. Class Title Captain		Working Title Division Director			Class Code 74060	
5. Regular Work Schedule			Position is:			
Start Time: 0815		Lunch Length: 0.50		<input checked="" type="checkbox"/> Full-Time		
End Time: 1615		Hours/Week: 40.00		<input checked="" type="checkbox"/> Permanent		
				<input type="checkbox"/> Part-Time		
				<input type="checkbox"/> Temporary		
Reports to:			Class Title			
R. Dane Merryman			Major			
Days Worked (Check all that apply.):						
S	M	T	W	TH	F	S
	X	X	X	X	X	
Explain any schedule variations:						
6. Describe the work assigned to this position, listing the critical duties and responsibilities first. Explain work in familiar terms and include machines or equipment used. Use additional paper if needed.						
<p>This position is responsible for directing the work of the Internal Affairs Division, Bureau of Professional Responsibility. The Division is responsible for the investigation of internally and externally generated complaints regarding personnel conduct and performance; non-complaint investigations; assisting the office of Chief Counsel and conducting other investigations as directed by the Commissioner.</p>						
<p>1. Ensures proper planning and analysis within the Division.</p>						
<p>15% Ensures proper planning and analysis within the Division by anticipating Department, Bureau and Division needs and requirements in areas such as budget preparation, federal grant development, program analysis, legal analysis, and emergency planning; setting policy and procedures; establishing time schedules; and assigning appropriate personnel to meet requirements.</p>						
<p>2. Directs administrative responsibilities of Division.</p>						
<p>10% Directs the administrative responsibilities of the Division, including budget and contract management, approvals and authorizations, facility and equipment management, documentation and record keeping, by conferring with superiors and subordinates, completing assignments, responding to requests, solving problems, and making decisions as required.</p>						
<p>3. Supervises and manages subordinate Division personnel.</p>						
<p>15% Supervises and manages personnel by monitoring, documenting, coaching and correcting performance; conducting performance evaluations; resolving personnel problems and conflicts; ensuring compliance with rules and regulations; providing leadership; and ensuring a non-discriminatory work environment.</p>						

7. Briefly describe how work is assigned to this position and how the work is reviewed.

The majority of assigned duties are defined by Administrative Regulation 4-25. Ancillary assignments are usually directed by correspondence and personal meetings. Supervisor reviews work by direct involvement or examination of final product.

8. If this is a supervisory position, briefly describe how work is assigned to subordinate personnel and how their work is reviewed. (If this is not a supervisory position, leave blank.)

Subordinates' major job function concerns the supervision of investigations into allegations of personnel misconduct. Daily interaction with subordinates via phone or in person ensures continuous updates and opportunities to provide additional guidance. Scope and direction of investigation are closely monitored and adjusted if necessary. Review of completed investigative reports allows for final evaluation of subordinates' functions.

9. Attach an Organizational Chart identifying all reporting relationships for this position.
10. Attach a statement identifying the essential functions of the positions.

CERTIFICATION

I certify that to the best of my knowledge all statements contained within the job description are correct. This job description consists of _____ pages. (Count this form as 1 page.)

Employee's
Signature

James B. [Signature]

Class
Title

CAPTAIN

Date

6/8/98

Immediate Supervisor's
Signature

[Signature]

Class
Title

MAJOR

Date

6/8/98

Reviewing Officer's
Signature

T.K. [Signature]

Class
Title

LTC.

Date

6/10/98

STD-370, Job Description
Page two

4. Supervises investigation of personnel complaints.
- 25% Reviews all investigative reports to ensure they are conducted in a fair, prompt, thorough and impartial manner. Provides necessary advice and support to field and Division personnel to ensure uniformity of procedure and product.
5. Ensures effective flow of information.
- 10% Ensures effective flow of information from and through the Division by communicating clearly, both orally and in writing, holding staff meetings as needed, and providing an atmosphere which encourages accurate and efficient communication.
6. Coordinates intra-department activities.
- 05% Coordinates intra-department activities by responding to inquiries and providing information as requested; attending staff meetings, Command Conferences, etc.; implementing federal grants, etc.
7. Assesses training needs of Division personnel.
- 05% Provides training to Division personnel by assessing training needs; selecting and approving personnel to attend training, in accordance with regulations; developing training programs, where needed; and evaluating in-service and out-service training programs for usefulness to Division personnel.
8. Maintains necessary knowledge and skills.
- 05% Maintains necessary knowledge and skills by keeping current on changes in Department policies and regulations, law enforcement procedures, and management principles; attending training as needed; and reading professional literature.
9. Performs other duties as required.
- 05% Performs other duties as required, including serving on boards, conducting investigations, attending ceremonies, drafting Department regulations, evaluating special equipment, and reviewing legislation and making recommendations.
10. Ensures effective working relationship with other agencies.
- 05% Ensures effective working relationships with external agencies and organizations by maintaining a professional Department image, and an atmosphere of cooperation with the general public, media, other law enforcement agencies and the courts, and public and private organizations.
11. Performs other related duties and those duties of a law enforcement officer as required, including, but not limited to interpreting laws and statutes of the Commonwealth, pursuing suspects, effecting arrests; qualifying with and, when necessary, using agency firearms and other self-defense devices; operating vehicles and using equipment in conjunction with law enforcement duties; responding to emergencies, civil disorders and disasters; and performing rescue functions.

STD-370, Job Description
Page three

Director, Bureau of Professional Responsibility

Director, Internal Affairs Division

Eastern Section
Commander

Central Section
Commander

Western Section
Commander

Administrative Unit
Supervisor

AR 4-22
1/30/98

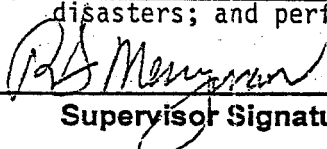
IDENTIFICATION OF ESSENTIAL JOB FUNCTIONS/ADA

Name: OBER, Darrell G.

Classification: Captain - Director, Internal Affairs Division

Essential Job Functions:

1. Supervises the Internal Affairs Division, responsible for the investigation of internally and externally generated complaints regarding personnel conduct and performance; non-complaint investigations; assisting the office of Chief Counsel, as well as conducting other investigations as directed by the Commissioner.
2. Directs administrative responsibilities of the Division.
3. Maintains knowledge and skills by keeping current on changes in Department policies and regulations, law enforcement procedure and management principles.
4. Performs required duties, such as serving on boards, conducting investigations, drafting Department regulations, reviewing legislations.
5. Performs other related duties of a law enforcement officer as required, including, but not limited to: interpreting laws and statutes of the Commonwealth; pursuing suspects; effecting arrests; qualifying with and, when necessary, using agency firearms and other self-defense devices; operating vehicles and using equipment in conjunction with law enforcement duties; responding to emergencies, civil disorders and disasters; and performing rescue functions.


Supervisor Signature5/22/98
Date

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF CAPTAIN JOHN R. BROWN

I, CAPTAIN JOHN R. BROWN, swear and affirm the following:

1. I am currently the Director of the Internal Affairs Division of the Bureau of Professional Responsibility.

2. I am familiar with the procedure for conducting administrative interviews, because I have conducted numerous administrative investigations and inquiries myself and because I currently supervise 13 investigators who do such investigations. Moreover, I am familiar with the procedures for conducting interviews in criminal cases, because I was a criminal investigator and supervisor for over 10 years with Troop K, Philadelphia and Troop H, Harrisburg.

3. I have reviewed the transcript of the interview of Capt. Darrell Ober in the administrative inquiry conducted by Majors Thomas Williams and Robert Werts, as well as the entire administrative inquiry. As a result of that review, I can state that the interview of Capt. Ober was done as an administrative interview, pursuant to State Police Administrative Regulation 4-25. That regulation and the Collective Bargaining Agreement, Article 6, Section 5, provide that Administrative/Garrity warnings must be


given, when appropriate, and the member must be permitted to have a union representative present if he desires. Ober was given Administrative/Garrity warnings and provided with a union representative. Ober was not in custody at the time of the interview, and was not subject to criminal sanctions if he would have refused to answer questions. Ober was required to answer the questions directed to him, pursuant to F.R. 1-1.28, but if he refused to answer, he was only subject to employment sanctions. As long as he was willing to risk employment sanctions, Ober could have left the interview at any time.

4. I am certain that Capt. Ober understood the nature of administrative interviews, because he was the former Director of the Internal Affairs Division, the position I now hold.

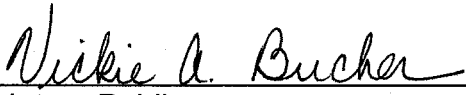
5. As the Director of the Internal Affairs Division, my job responsibilities require me to direct the work of the Internal Affairs Division, which includes the conducting of investigations as directed by the Commissioner. This would include the administrative inquiry conducted by Majors Williams and Werts.

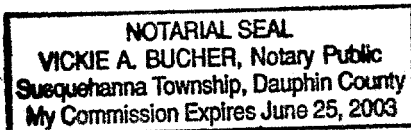
6. It is my understanding, from reviewing Capt. Ober's deposition transcript, that he testified that he did not know the proper procedure for investigating an allegation against a Deputy Commissioner, Commissioner, or other top management of the Pennsylvania State Police. This is false, because he assigned me to conduct an investigation of an allegation of misconduct made regarding Lt. Col. Westcott on September, 16, 1998. The Commissioner and deputy commissioners and other top management of the State Police are investigated in the same manner as any other member of the Pennsylvania State Police.

7. Capt. Ober has also accused me of shunning or harassing him in some manner. I have never shunned, harassed, or ostracized Capt. Ober in any manner, nor have I ever insulted him, verbally or non-verbally. None of the defendants have ever directed or requested me to shun, ostracize, harass or insult Capt. Ober in any manner.


CAPTAIN JOHN R. BROWN
Director, Internal Affairs Division
Bureau of Professional Responsibility
Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002


Notary Public



COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF MARK R. CAMPBELL

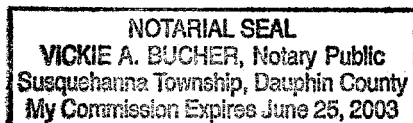
I, Mark R. Campbell, swear and affirm the following:

1. I am presently Governor Mark Schweiker's Chief of Staff.
2. In May, 1999, I was Governor Tom Ridge's Deputy Chief of Staff.
3. I do not personally know Capt. Darrell Ober.
4. If Capt. Ober has ever been shunned, ostracized, or harassed, or subjected to insults of any kind, it was not at my direction, or behest.
5. I have never personally shunned, ostracized or harassed Capt. Ober or subjected him to insults of any kind.

Mark R. Campbell
MARK R. CAMPBELL

Sworn to and subscribed
before me this 16th day
of May, 2002

Vickie A. Bucher
Notary Public



COMMONWEALTH OF PENNSYLVANIA

:

: ss.

COUNTY OF DAUPHIN

:

AFFIDAVIT OF LT. COL. HAWTHORNE N. CONLEY

I, Lt. Col. Hawthorne N. Conley, swear and affirm the following:

1. I am currently the Deputy Commissioner of Administration for the Pennsylvania State Police.

2. Just prior to being appointed to my current position, I served as the Director of the Bureau of Professional Responsibility, at the rank of major.

3. I was Capt. Darrell Ober's direct supervisor for a period of time in the Bureau of Professional Responsibility.

4. I have never personally shunned, ostracized or harassed Capt. Ober or subjected him to insults of any type.

5. If Capt. Ober was shunned, ostracized, harassed or subjected to insults of any type, it was not at my direction or behest.

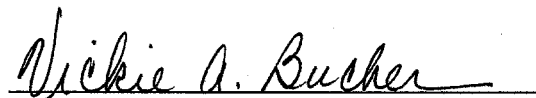
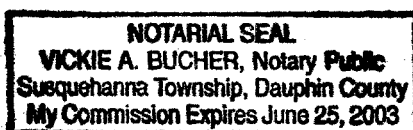


LT. COL. HAWTHORNE N. CONLEY
Deputy Commissioner of Administration
Pennsylvania State Police

Sworn to and subscribed

before me this 16th day

of May, 2002

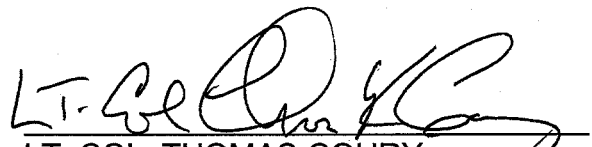

Notary Public

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF DAUPHIN :

AFFIDAVIT OF THOMAS COURY

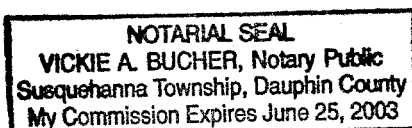
I, Retired-Lt. Col. Thomas Coury, swear and affirm the following:

1. I am currently retired from the Pennsylvania State Police, and am employed by the Parsons Corporation as vice-president.
2. Prior to my retirement from the Pennsylvania State Police, I served as Deputy Commissioner of Operations, and just prior to that, as Deputy Commissioner of Administration.
3. As Deputy Commissioner of Administration, Capt. Darrell Ober reported to me through his supervisor, then-Major Hawthorne N. Conley.
4. I have never personally shunned, ostracized, or harassed Capt. Ober at any time, nor have I ever subjected him to any kind of insults.
5. I have never directed or requested anyone to shun, ostracize, harass or insult Capt. Ober.


LT. COL. THOMAS COURY
Retired-Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002


Notary Public



COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF MAJOR PHILLIP L. DEWIRE

I, MAJOR PHILLIP L. DEWIRE, swear and affirm the following:

1. I am currently the Director of the Bureau of Liquor Control Enforcement.
2. Since I have been the Director of the Bureau, Captain Darrell Ober has served as the Director of the Administration Division of the Bureau. I am Captain Ober's direct supervisor.
3. I was aware of the fact that Captain Ober filed this lawsuit against Colonel Evanko, Lieutenant Colonel Conley, former Lieutenant Colonel Coury, former Lieutenant Colonel Westcott, and the Governor's former Chief of Staff Mark Campbell.
3. In order to minimize the contact between the Commissioner and the other defendants in this lawsuit, I personally made the decision to keep Captain Ober out of situations where they would be present. This decision was mine alone. I did not consult any of the defendants about this decision, and no one ever instructed me to exclude Captain Ober from activities in which they were involved.
4. Shortly after I became the Director of the Bureau of Liquor Control Enforcement, Captain Ober requested a PEMA assignment. I had no objection to that assignment. Major Leonard Washington, Director of the Bureau of Special Operations, initially told me it was okay for Captain Ober to be assigned to PEMA. However, he subsequently refused to consider him for the position. I did not discuss the matter regarding the PEMA assignment with the Commissioner or any of the other defendants

in this lawsuit. I do not know why Major Washington changed his mind about assigning Captain Ober to the PEMA position.

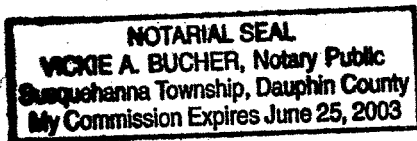
Phillip L. DeWire

MAJOR PHILLIP L. DEWIRE
Director, Bureau of Liquor Control Enforcement
Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002

Vickie A. Bucher

Notary Public



8

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF MAJOR ROBERT R. EINSEL

I, Major Robert R. Einsel, swear and affirm the following:

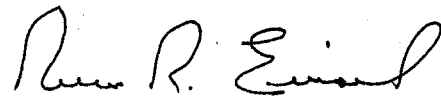
1. I am currently the Director of the Pennsylvania State Police, Bureau of Training and Education.
2. I have reviewed Captain Ober's training records at the Pennsylvania State Police Academy in preparation for this affidavit. As a result of that review, I have determined that Captain Ober became a Pennsylvania State Police Trooper on December 5, 1981.
3. As a condition of employment with the Pennsylvania State Police, all Pennsylvania State Police officers must sign an oath of office promising to abide by Pennsylvania State Police regulations. Captain Ober signed such an oath on July 20, 1981.
4. On July 21, 1981, while at the State Police Academy, Captain Ober received training on the meaning of Pennsylvania State Police Field Regulations, including FR 1-1.

5. After graduating from the Academy, all members are required to review changes to state police regulations as those changes are issued and disseminated. Members are required to maintain Field Regulation changes in their issued Field Regulations Manual.

6. Pennsylvania State Police Field Regulation FR 1-1.17(B) states as follows: "Members shall promptly report to their supervisor any information which comes to their attention and which tends to indicate that any other member or employee has violated any law, rule, regulation or order."

7. FR 1-1.17(B) became effective March 25, 1992.

8. Moreover, while Captain Ober was a cadet at the State Police Academy, he received training on the Department's chain of command and its significance in the paramilitary structure of the Pennsylvania State Police. The importance of reporting matters through his chain of command was emphasized during Captain Ober's instruction at the Academy.

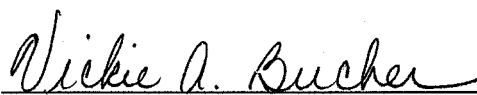


MAJOR ROBERT R. EINSEL
Director, Bureau of Training & Education
Pennsylvania State Police

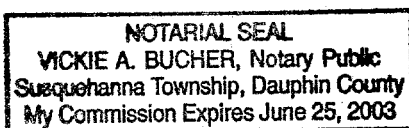
Sworn to and subscribed

before me this 17th day

of May, 2002



Notary Public



COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF DAUPHIN :


AFFIDAVIT OF COLONEL PAUL J. EVANKO

I, Colonel Paul J. Evanko, swear and affirm the following:

1. I am presently the Commissioner of the Pennsylvania State Police.
2. I promoted Captain Darrell Ober to the rank of Captain early in my administration.
3. As Commissioner of the State Police, I have the sole discretion to promote a member to the rank of Major. This authority is addressed in the State Police Operations Manual 7-9, "Career Development and Promotion Testing," 3.2. None of the deputy commissioners has the authority to promote a captain to the rank of major.
4. With the exception of the commissioner and three deputy commissioners, the rank of major is the highest enlisted rank in the Pennsylvania State Police. There are only 18 majors in the State Police. Consequently, there are seldom vacancies for positions at the rank of major.
5. When a position becomes available at the rank of major, I am provided with a list of captains who are eligible for promotion. I carefully evaluate all of the eligible captains to determine who is best suited to fill the particular vacancy. In making my decision, I do not consider the individual captains' test scores.

6. Captain Ober became eligible for promotion to major in December 1996. Since then, there have been 44 other captains who were also eligible for promotion; I have promoted 15 of those captains to major. Whenever there has been a vacancy at that rank, I carefully considered every eligible captain, including Captain Ober, for the position. Each time, I have determined that someone else was best qualified to fill the vacancy.


7. Captain Ober continues to remain eligible to be promoted to the rank of major. I always consider all eligible captains when I make my determination as to who is best suited to fill a particular vacancy.

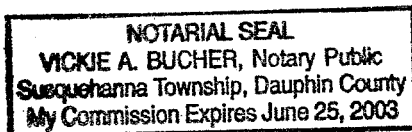

COL. PAUL J. EVANKO
Commissioner
Pennsylvania State Police

Sworn to and subscribed

before me this 17th day

of May, 2002


Notary Public



COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF MARC J. INFANTINO

I, MARC J. INFANTINO, swear and affirm the following:

1. I am currently the Director of the Fiscal Division in the Bureau of Staff Services, Pennsylvania State Police.

2. I suggested to the Pennsylvania State Police Commissioner that the Department publish a pictorial history of the State Police for the 100th Anniversary of the organization. My suggestion was approved in 1996, and I was advised to formulate a committee, made up of volunteers, to work on the project.

3. I had heard that Captain Darrell Ober collected PSP memorabilia and might be willing to provide pictures of items in his collection for our book. Consequently, I asked Captain Ober if he would volunteer to work on the Centennial Book Committee, and he agreed.

4. Membership on the committee is strictly voluntary. The committee members receive no salary for their work on the committee, although the committee occasionally meets during work hours.

5. On August 20, 1999, the Colonel Evanko informed me that Captain Ober could no longer serve on the committee because he was assigned to an important

project, the Incident Information Management System, which needed Captain Ober's full-time commitment.

Marc J. Infantino

MARC J. INFANTINO
Director, Fiscal Division
Bureau of Staff Services
Pennsylvania State Police

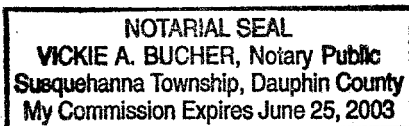
Sworn to and subscribed

before me this 16th day

of May, 2002

Vickie A. Bucher

Notary Public



COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF DAUPHIN : ss.
:

AFFIDAVIT OF MAJOR FRANCIS E. KOSCELNAK

I, MAJOR FRANCIS E. KOSCELNAK, swear and affirm the following:

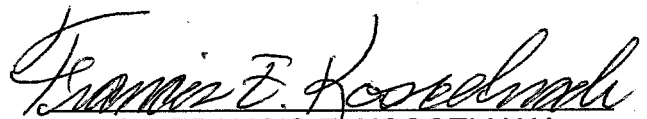
1. I am currently the Pennsylvania State Police Area II Commander, which includes three troop commands. Prior to this assignment, I was the Director of the Bureau of Liquor Control Enforcement.

2. While I was the Director of the Bureau of Liquor Control Enforcement Bureau Director, Captain Ober was transferred into the Bureau. For a short period of time, Captain Ober served as the Bureau's Central Section Commander.

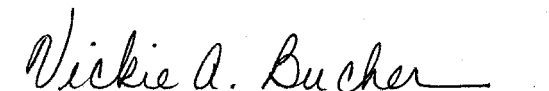
3. During the time Captain Ober was the Central Section Commander, he asked for permission to assume duties with the Pennsylvania Emergency Management Agency (PEMA). Captain Ober had never been assigned to the Bureau of Liquor Control Enforcement before, and I felt it was important for Captain Ober to focus his time and attention on his new duties. I spoke to Major Leonard Washington, who was then the Director of the Bureau of Emergency & Special Operations (BESO) to make sure that his Bureau would not suffer a hardship if I did not permit Captain Ober to participate in PEMA. (The Emergency Operations Officer, who coordinates the

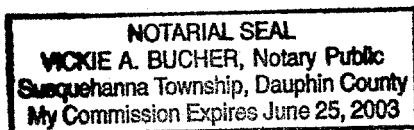
Pennsylvania State Police involvement in PEMA is contained within BESO). Major Washington assured me it would not be a problem, and I decided not to allow Captain Ober to take on the added responsibilities of a PEMA liaison. I never spoke with the Commissioner or any of the Deputy Commissioners about whether to permit Ober to participate in PEMA. As Captain Ober's Bureau Director, I felt it was my decision to make, and I chose not to allow him to take on that added responsibility.

4. Although my primary reason for refusing Captain Ober's request was my desire to have him concentrate on adjusting to his new duties, there was another reason I did not allow Captain Ober to serve as a PEMA liaison. Normally, PEMA liaisons are paid for their service out of funds allocated to the Bureau in which the officer is assigned on a full-time basis. However, the Bureau of Liquor Control Enforcement is specially funded, and its funds cannot legally be used to compensate its members for serving in the additional capacity of a PEMA liaison.


MAJOR FRANCIS E. KOSCELNAK
Area II Commander
Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002


Notary Public



12

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,

Plaintiff

VS.

PAUL EVANKO, MARK
CAMPBELL, THOMAS COURY,
JOSEPH WESTCOTT,
HAWTHORNE CONLEY,

Defendants

NO. 1: CV-01-0084
(Judge Caldwell)

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**AFFIDAVIT OF LEE ANN LABECKI,
DIRECTOR, GOVERNOR'S POLICY
COMMONWEALTH OF PENNSYLVANIA**

I, Lee Ann Labecki, being duly sworn according to law, depose and say that all of the facts set forth in this affidavit are true and correct to the best of my personal knowledge or information and belief.

1. I am currently the Director of the Pennsylvania Governor's Policy Office. I was appointed to this position on April 1, 2001.

2. From February 1989 through January 1998, I worked at the Department of Corrections in the Division of Planning, Research, and Statistics. That Division was later restructured as the Bureau of Management Information Services. From January 1995 through January 1998, I was the Director of that Bureau.

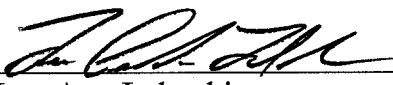
3. In January 1998, I began working in the Governor's Policy Office as an Executive Policy Specialist in the Criminal Justice Policy Office. On March 1, 1999, I was promoted to Deputy Director of the Governor's Policy Office.

4. Shortly after I was promoted, our Criminal Justice Policy Officer, Mary Woolley, advised me that Lieutenant Colonel Hickes told her the FBI was investigating allegations regarding a job-selling scheme at the Pennsylvania State Police Academy. According to my recollection, Ms. Woolley implied that other top executives at the Department were not told of the FBI investigation due to concerns that they might be involved in the scheme.

5. From my years at the Department of Corrections, I was conscious of the need to report matters that might result in criminal charges up through the chain of command. For that reason, I told Charles Zogby and Nannette McLaughlin about the FBI's investigation. At the time, Mr. Zogby was Director of the Governor's Policy Office, and Ms. McLaughlin was Deputy Chief of Staff to the Governor, who handled personnel matters for the Governor's Office.

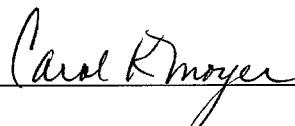
6. A couple of months later, I heard that Colonel Evanko had learned of the FBI investigation and was upset that he had not been informed of it earlier.

7. I subsequently learned that the Pennsylvania State Police conducted an inquiry into the facts and circumstances of the FBI investigation.

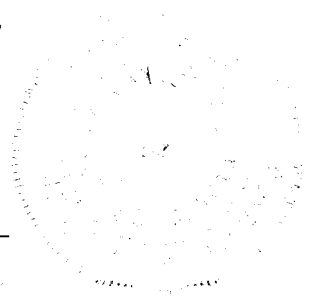


Lee Ann Labecki
Director, Governor's Policy Office
Commonwealth of Pennsylvania

Sworn to and subscribed before me this
28th day of March, 2002.



Notarial Seal
Carol K. Moyer, Notary Public
Harrisburg, Dauphin County
My Commission Expires Feb. 17, 2004



STATE OF Pennsylvania

COUNTY OF Dauphin

AFFIDAVIT

I, Captain Frank Monaco, swear and affirm the following:

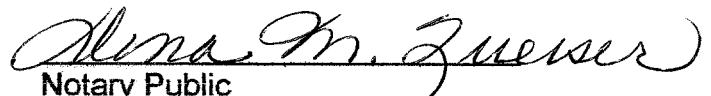
1. My name is Frank H. Monaco, and I am currently the Troop Commander for Troop A, Greensburg, holding the rank of Captain with the Pennsylvania State Police (PSP).
2. From 1995 through the latter part of 1998, I was assigned as the Director of the Organized Crime Division of the Bureau of Criminal Investigation in Harrisburg.
3. In August or September, 1998, I and other members of the Pennsylvania State Police were contacted by Special Agent Ralph Kush of the FBI, regarding a job-selling investigation the FBI was doing involving a Trooper. Present at the meeting with Agent Kush and other members of the FBI, were myself and Sergeant Jerry Ryan, Corporal Lieberum and Corporal Shaw. We met in the Western Task Force Commander's Office.
4. The FBI asked us at this meeting if it was possible for a Trooper to "buy" enlisted positions with the Pennsylvania State Police. I told the FBI that it was possible that a Clerk in the Bureau of Personnel could change a PSP applicant's score, but there were so many people involved in the PSP application process, that I didn't see any other scenario where it could happen.
5. I then informed Agent Kush if he needed additional information, he could contact the Bureau of Professional Responsibility.
6. At no time during my discussion with the FBI on this matter did it ever appear to me that the FBI was accusing anyone high-ranking in the Department, or in the Governor's Office, of being involved in a job-selling scheme.
7. At no time did the FBI indicate that this job-selling investigation was "top secret" or highly confidential. To my mind, the FBI was only asking for information relative to a criminal investigation they were conducting on a Trooper, and I directed them to BPR to get that information and perhaps so that BPR could conduct a parallel administrative investigation.

8. Based on my extensive experience working with the FBI, it is my opinion that if the FBI believed that a high-ranking member of the Department or the Governor's Office were involved in a criminal job-selling scheme, they would never have contacted me or any other member of the PSP to get information.


Captain Frank H. Monaco

Sworn to and subscribed before me this

17th Day of MAY 2002


Notary Public
My Commission Expires:

NOTARIAL SEAL
DONA M. QUEISER, Notary Public
Hempfield Township, Westm'd Cty., PA
My Commission Expires September 27, 2005

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF CAPTAIN CHARLES J. SKURKIS

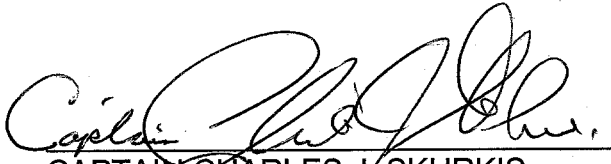
I, CAPTAIN CHARLES J. SKURKIS, swear and affirm the following:

1. I am currently the Director of the Systems and Process Review Division of the Bureau of Professional Responsibility (BPR). Just prior to serving in this position, I was the Director of the Internal Affairs Division in BPR. As part of my job description as the Director of the Internal Affairs Division, I was required to supervise investigations requested by the Commissioner.

2. I have been the chief investigator in numerous BPR investigations and helped write the Administrative Regulations governing the operations of the Bureau.

3. Since the inception of BPR, the Commissioner has had the authority to request administrative inquiries and investigations, even absent a complainant or allegation of misconduct. Moreover, it is not unusual to conduct an initial investigation or inquiry into the facts and circumstances to determine whether a full internal affairs investigation is warranted.

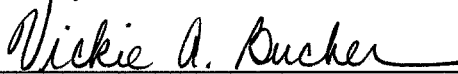
4. I am familiar with instances in the past where former Commissioners have requested or ordered administrative inquiries or investigations of the nature described in paragraph 3.

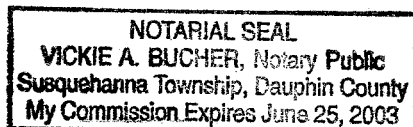

CAPTAIN CHARLES J. SKURKIS
Director, Systems & Process Review
Division
Bureau of Professional Responsibility
Pennsylvania State Police

Sworn to and subscribed

before me this 16th day

of May, 2002


Notary Public



COMMONWEALTH OF PENNSYLVANIA

:

: ss.

COUNTY OF DAUPHIN

:

AFFIDAVIT OF LT. COL. JOSEPH WESTCOTT

I, Retired-Lt. Col. Joseph Westcott, swear and affirm the following:

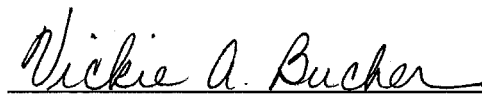
1. I am currently retired from the Pennsylvania State Police.
2. Just prior to my retirement, I served as the Deputy Commissioner of Operations for the Pennsylvania State Police.
3. I have never personally shunned, ostracized, or harassed Capt. Darrell Ober or subjected him to insults of any type.
4. If Capt. Ober was shunned, ostracized or subjected to any type of insult, it was not done at my direction, nor did I request anyone else to do such things.

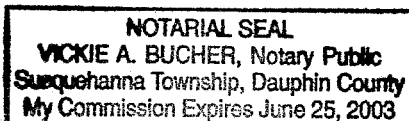

LT. COL. JOSEPH WESTCOTT
(Retired-Pennsylvania State Police)

Sworn to and subscribed

before me this 17th day

of May, 2002


Notary Public



16

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DARRELL G. OBER,

Plaintiff

VS.

PAUL EVANKO, MARK
CAMPBELL, THOMAS COURY,
JOSEPH WESTCOTT,
HAWTHORNE CONLEY,

Defendants

NO. 1: CV-01-0084
(Judge Caldwell)

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**AFFIDAVIT OF MARY WOOLLEY, FORMER DIRECTOR
GOVERNOR'S CRIMINAL JUSTICE POLICY OFFICE
COMMONWEALTH OF PENNSYLVANIA**

I, Mary Woolley, being duly sworn according to law, depose and say that all of the facts set forth in this affidavit are true and correct to the best of my personal knowledge or information and belief.

1. From July 1995 through December 2000, I served as the Director of the Governor's Criminal Justice Policy Office. In that capacity, I was liaison to the Pennsylvania State Police on criminal justice policy issues.

2. Until March 1, 1999, my immediate supervisor was Pete Tartline. At the time, Mr. Tartline was the Deputy Director of the Governor's Policy Office.

3. On March 1, 1999, Lee Ann Labecki became my immediate supervisor when she replaced Pete Tartline as Deputy Director of the Governor's Policy Office.


4. As Director of the Criminal Justice Policy Office, it was my duty to interact on a regular basis with the Deputy Commissioner for Staff within the Pennsylvania State Police. In late February or early March 1999, I was in regular contact with Lieutenant Colonel Robert Hickes, Deputy Commissioner for Staff. During that timeframe, Lieutenant Colonel Hickes and I discussed a number of issues, including the Pennsylvania Justice Network, the statutory cap on the State Police complement, the State Police laboratories, and the Insta-check System.

5. During one of our conversations in late February or early March 1999, Lieutenant Colonel Hickes told me that an officer in the State Police Internal Affairs Division had been working with the FBI on an investigation into allegations regarding potential criminal conduct of a trooper in relation to the State Police Academy. The Internal Affairs officer told Hickes that the FBI believed the investigation might "go all the way to the top." Hickes told me that he had directed the Internal Affairs officer to cooperate with the FBI and that the existence of the FBI's investigation had not been reported to anyone else in the chain of command.

6. Based on my conversation with Lieutenant Colonel Hickes, it was my understanding that Colonel Evanko and Lieutenant Colonels Westcott and Coury did not know about the FBI investigation.

7. Within a day or so, I reported the information to my supervisor, Lee Ann Labecki. Ms. Labecki and I then informed Charles Zogby and Nannette McLaughlin about the FBI's investigation. At the time, Mr. Zogby was Director of the Governor's Policy Office, and Ms. McLaughlin was Deputy Chief of Staff to the Governor.

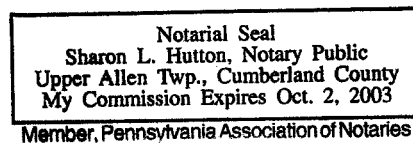
8. At some point later, I learned that Colonel Evanko had been told about the FBI investigation and was upset that he had not been informed of it earlier.


Mary Woolley

Sworn to and subscribed before me this

24th day of April 2002





1 intelligent person we know that. You're very skilled. Let
2 me repeat the groundwork so we don't have to go through
3 this every time there is a question where counsel gets
4 nervous, okay? Cause I want to get through this
5 deposition. The understanding is that if you learned
6 about it from investigatory activities or any activities I
7 guess, that occurred after March or April 2001, you know
8 sit back and think when I ask these questions okay?

9 A: Yes sir

10 Q: Or you want to confer with counsel do
11 that. We know what the ground rules are. You know
12 what the ground rules are?

13 A: Yes sir

14 Q: Okay let's see if we can get through this.
15 Okay now, when do you recollect first learning that
16 Captain Ober had told the Commissioner about the FBI
17 coming to him in the fall of '98?

18 A: Back in 1999 I did not, I'm not aware of
19 any contact that Captain Ober had with the
20 Commissioner. As I knew is what Captain Ober
21 forwarded to me. He faxed me a complaint sheet, and it
22 said on there that in October of '98 somewhere early
23 October of '98 he was informed by the FBI that this
24 Trooper Stanton may have been involved in some type of
25 job selling or political corruption scheme of some sort.

1 And I think he actually, he called me to make sure I was
2 at the office is what I'm remembering. Then he faxed me
3 the complaint form from where ever he was at that day.
4 He faxed it to me cause I would have been the person to
5 receive it, but as far as any communications he had I'm
6 not aware of any.

7 Q: Okay. Now so it's your testimony as you
8 sit here today that you were never aware prior to March
9 or April of 2001. Now we're talking about the entire year
10 of '99 and 2000. That you were never aware, until you
11 did your investigation obviously or assigned to this so
12 called attorney's investigation, that you were never aware
13 that the Commissioner had been, let's lay a foundation
14 this way, had been advised of the FBI interest.

15 A: The only thing that I can say during that
16 time was that my knowledge, I mean I don't know what
17 communications occurred between Captain Ober and the
18 Commissioner. I know I was told by my Major, who at
19 the time was Major Conley, that the Commissioner
20 requested an investigation into the circumstances
21 surrounding the FBI probe or whatever you want to call
22 that. So all that behind the scenes stuff I

23 Q: Okay let's start there. At some time
24 Major Conley tells you that the Commissioner was
25 interested in some type of investigation into what was

1 behind the FBI interest.

2 A: Right

3 Q: Can you remember what Major Conley
4 said to you?

5 A: The only thing I can remember Major
6 Conley saying was that the Commissioner requested an
7 investigation into the circumstances surrounding the
8 FBI, I don't know if it was the FBI investigation or the FBI
9 probe or how it was handled or something to that effect.
10 In my position as the acting, keep in mind I had only
11 been acting for about three, four weeks maybe. No not
12 even quite four weeks.

13 Q: So this would have been June of '99?

14 A: Well no this would have been May.

15 Q: May of '99

16 A: I'm thinking around May 20th or so.

17 Q: Of '99?

18 A: Yes sir

19 Q: So May 20th. Let's make sure we keep
20 calendar in front of us. Sometime on or about May of
21 1999 Major Conley tells you that the Commissioner
22 requested an investigation into the FBI probe?

23 A: To get all the facts.

24 Q: To get all the fact?

25 A: Yes sir. Get all the facts involved with

1 what occurred? What happened here?

2 Q: Well at that point either yourself or Major
3 Conley assigned a BPR number, right?

4 A: No

5 Q: Oh, oh you didn't do that?

6 A: No I didn't do that no.

7 Q: Did Major Conley do that?

8 A: Not to my, no

9 Q: Okay, I'm not trying to be cute now. I
10 jumped to quick on that question. So let me, I apologize
11 to you. Let me go back. Sometime on or about May
12 roughly the 20th or so, you're not sure, Conley say to you,
13 Major Conley says to you the Commissioner requested an
14 investigation. Did Major Conley indicate...Strike that.
15 Did Major Conley during that conversation provide any
16 other detail?

17 A: No, no sir

18 Q: Okay

19 A: I didn't have any kind of document in
20 front of me either.

21 Q: Right

22 A: I mean I wasn't given like a form or
23 anything.

24 Q: No just a verbal thing from

25 A: Yes

1 Q: And was anyone else present at that
2 time?

3 A: Not to my, no sir, I can't, no

4 Q: Now didn't you end up at a meeting were
5 the Commissioner was present? Coury was present.
6 Conley was present. Who all was present at the meeting
7 where this issue of this investigation was discussed?

8 A: Not me

9 Q: You weren't there?

10 A: No sir. I was never at a meeting with the
11 Commissioner, Colonel Coury, who else did you say?

12 Q: I'm trying to learn from the meeting.
13 Let's do it this way. Did you ever learn of a meeting were
14 the Commissioner was present and Mr. Conley, Major
15 Conley, was present? Colonel Coury was present, and
16 others were present where the investigation was
17 discussed?

18 A: No

19 Q: You never learned of that from anyone?

20 A: No

21 Q: Okay. Alright now when Major Conley
22 told you, let's go back to this sometime on or about May
23 of 1999, okay. Maybe around May 20th or so of 1999.
24 When Major Conley discussed this with you what did you
25 do? In other words, you recollect whether he asked you

1 do anything? Were you suppose to do any follow-up
2 action, do something? Do you remember anything like
3 that? What I'm gonna do here, let me tell you where I'm
4 going with this. I'm gonna try, I'm gonna ask you
5 questions having to do with, you know why Major Conley
6 would say this to you. Since the conversation, the way
7 you've described it so far was relatively brief and there
8 was not a lot of information in it, I'm gonna try ascertain
9 what his purpose was and you know if there was any
10 follow-up acting. Can you tell us let's say for the
11 remainder of May, let's do it this way. That's my offer.
12 That's where I'm coming from. For the remainder of May
13 '99 do you have a recollection of anything that you did in
14 regard to this comment by Major Conley?

15 A: Only other thing that I recall was that
16 Major Williams and Major Wertz's were mentioned as the
17 people that were gonna be gathering the facts on the
18 inquiry.

19 Q: Was that discussed during this
20 conversation?

21 A: I don't recall if it was discussed. You
22 mentioned that to me the first time, cause see Major
23 Conley's office and where I was working out of is very
24 close proximity and that could have just. I don't if he
25 said that the first time or if he told me later in the week

1 or whatever that they were going to be doing, gathering
2 the facts.

3 Q: Rick the important thing is that Major
4 Conley, who's head of BPR, tells you this.

5 A: Right

6 Q: You're at least at this time, acting
7 Director. You weren't actually appointed to that position
8 of January 29th of 2000. You were acting Director of IAD.

9 A: Correct

10 Q: And you weren't involved in that
11 investigation?

12 A: No

13 Q: You were never asked to assign it a
14 number, do any paperwork on it, or to log it in, or
15 anything like that?

16 A: What happened there sir I can explain
17 that to you.

18 Q: Yeah that's fine. Sure, please.

19 A: What had happened was that when I got
20 the complaint sheet for Captain Ober the first thing I
21 needed to do was assign someone from Internal Affairs to
22 look into this Stanton thing. So I contacted our western
23 office, I think it was Lieutenant Carnahan assigned
24 Sergeant Dana.

25 Q: Could you spell those names for the

1 record?

2 A: Yes, Carnahan is C-A-R-N-A-H-A-N, first
3 name Donald, D-O-N-A-L-D. The Lieutenant was Dana,
4 D-A-N-A, Seifner, S-E-I-F-N-E-R I think is the correct
5 spelling of her name.

6 Q: Okay

7 A: And what I did was she was assigned to
8 contact the FBI and get whatever information that they
9 were gonna turn over to us. So we could pursue,
10 properly pursue what we needed to pursue with Stanton.
11 So what end up happening she end up getting a box of
12 tapes and reports that she forwarded in to the office. I
13 needed to get those transcribed so there was some down
14 time while these were being transcribed. I know that that
15 information, Major Wertz and Major Williams at times
16 would pop into the BPR office unannounced and had
17 never called and said hey I'm stopping by or something.
18 They just would come though. Just routine during the
19 day the people would stop through there. I remember a
20 conversation I had, a brief conversation I had with I
21 believe it was Major Wertz. He made a comment to me
22 that a number hadn't been taken. He said something
23 like "Oh, an oversight here. There wasn't a number
24 taken for this." or something to that effect, and I said "
25 Well I'll double check.". I said something to Major Conley

1 just brief I said "Hey is what there, is this doing the
2 investigation at the request of the Commissioner?", and
3 he said yeah. So I wrote up the worksheet at that time. I
4 wrote up the complaint sheet and that would have been
5 in June of '99. Yeah it would have been June of '99. I
6 wrote up the worksheet and assigned it a number and
7 provided that to them.

8 Q: You didn't check with the Commissioner
9 on that?

10 A: No. I never talked to the Commissioner.

11 Q: So you wrote up, you on your own, wrote
12 up a complaint sheet for the Commissioner based upon
13 hear say comments made to you by Major Conley, and
14 apparently some generals made by Mr. Williams and Mr.
15 Wertz. Is that correct, some awareness of what they were
16 doing?

17 A: Yeah I think it was, my recollection is
18 Major Wertz said they needed a number for it or
19 something. There wasn't a number taken and I checked
20 with Major Conley who is the Bureau Director and he
21 said this is being done at the request of the
22 Commissioner. And I just said I'll make up the sheet
23 based on it.

24 Q: Okay Rick

25 A: That's my boss

1 Q: Yep he's your boss. I know how the
2 systems work. I've been in the Army, and the Army runs
3 a little different maybe. Let me just. I very affectionately
4 look back on those days. The best thing that's ever
5 happened to me in my life, but let me tell you me
6 problem with this one okay. What is a complaint
7 verification form? Can you tell me what that is?

8 A: A complaint verification form is a form
9 that we use to verify citizens' complaints. It is a form we
10 send to citizens when they haven't completed, like say
11 for intense we can receive complaints form a citizen.
12 They write a detailed letter and they sign it. That is a
13 verification of complaint. Not ever complaint that we
14 receive in the bureau has to be on our form. Like for
15 intense if you wanted to file a complaint you being an
16 attorney you have access to notaries. You could swear at
17 an affidavit and send it in and that could serve as the
18 complaint verification.

19 Q: Well who did the affidavit in this case?

20 A: There wouldn't be one cause this was an
21 internally generated complaint, not an externally
22 generated complaint.

23 Q: Oh, okay

24 A: That's the difference.

25 Q: So IAD can go off and investigate a

1 Trooper based upon some verbal communication by
2 somebody and just investigate a Trooper, their career,
3 their activities, etc. Is that right?

4 A: There's a provision in our regulations
5 AR-425 that for investigative criteria that the
6 Commissioner can request an investigation.

7 Q: Rick you never talked to the
8 Commissioner. Didn't you tell me that?

9 A: That's right

10 Q: And you received nothing written from
11 the Commissioner?

12 A: That's correct

13 Q: Did you get a phone call from the
14 Commissioner?

15 A: No I didn't

16 Q: Did you get piece of paper form the
17 Commissioner?

18 A: No I didn't

19 Q: Any electromagnetically recorded
20 message like a tape-recorded message?

21 A: Nope

22 Q: Or anything of that type?

23 A: No sir

24 Q: So your telling us you weren't requested
25 to fill out this form. You did this on your own.

1 A: That's

2 Q: Are you protecting someone sir? Now I'm
3 not insulting you.

4 A: No

5 Q: Don't be upset with me. Are you
6 protecting someone?

7 A: No sir. My Conversation with Major
8 Conley was that this wasn't done, and would do it.

9 Q: Okay

10 A: I mean I've written up worksheets on
11 other things.

12 Q: Alright sir. I'm not saying you haven't,
13 and I'm just trying to delve into some of the reasons here,
14 okay?

15 A: Uh-mum

16 Q: Why was it important to fill out this? I
17 mean, why do this? Let me tell you were I'm coming from
18 first. Cause I don't want, again I'm not interested in
19 leading you down a blind alley. I just want to know what
20 happened here.

21 A: Okay

22 Q: What I'm gonna ask you is a group of
23 questions here that have to do with the form. Why it was
24 important to assign this a number after? And I'm gonna
25 ask you question about when this investigation began,

1 because everything I've heard so far indicates that it was
2 underway when this was done. That this was done after
3 the fact. So I'm gonna ask you about that, okay?

4 A: Okay

5 Q: I'm gonna ask you why that was
6 important. I'm gonna ask you about the procedures
7 connected with it. So first question, why was it
8 important to fill out that, you know assign it a number,
9 fill out that form? What's the meaning of that? If you
10 could just go investigate somebody, which you've told me
11 you can, why is it important to give it a number, or
12 assign it some number, or complaint, whatever it is. I
13 need you to explain that to me.

14 A: It use to be called the BPR control
15 number, but it's called the IAD control number now, and
16 that was something Captain Ober instituted when he was
17 Director. The control number it's self is for tracking
18 purposes. So that any report that is generated from an
19 inquiry or investigation can be tracked years down the
20 road. It's for our filling system and it's also entered into
21 a computer database. Cause we have to do a statistical
22 report at the end of the year on how many complaint,
23 how many investigation, how many this or that. We do a
24 statistical summery of everything that come to our
25 bureau.

1 Q: Yes. Yes sir I understand that. Okay, so
2 it's important for that reason. Are there any other
3 reasons why it's done?

4 A: Just an indexing and tracking number

5 Q: Well if I use the term "off the books",
6 okay. Let me use that term. If I'm coining a term let me
7 try to explain to you what I mean by that. If an
8 investigation's going on or occurs and it's not identified in
9 the system as a existent valid investigation I want to find
10 out if it indeed is an investigation and what controls
11 there may be on it, what perimeters govern it, or
12 whatever. Because I assume that in an organization of
13 over four thousand people that folks can't just go off
14 investigating folks without some type of conformance to
15 regulation or administrative practices. That's where I'm
16 coming from. So let me ask you some questions there.
17 You told us that the IAD control number is essentially
18 designed for tracking purposes and in order to make sure
19 that information is kept in one place so it can be entered
20 into a database and be referred to and use. That sort of
21 thing. Why didn't at the time...Strike that. At the time
22 the issue came up of this not having a number, I think
23 you described it sort of as a "ut-o" by Mr. Wertz or Mr.
24 Williams. "Ut-o" there's no number here. How long at
25 that time had Mr. Williams and Mr. Wertz been in the

1 Pennsylvania State Police? Do you know?

2 A: I don't know, but I know Major Williams
3 was close to retirement. So I would imagine he had thirty
4 years. Major Wertz I think he was close to thirty years.

5 Q: So when they started their investigative
6 activities they didn't open it kind of complaint. You know
7 what they were told, what was said to them anything like
8 that?

9 A: No sir, I don't know any of those, what
10 they were told. The only thing that I recall Major Wertz,
11 it's either Major Wertz or Major Williams. I don't
12 remember which one. Or it might have been both. They
13 had asked me about the supervisory inquiry. You know
14 doing a supervisory inquiry, the documentation and I
15 explain to them that this was something that Captain
16 Ober initiated that we were using in the Internal Affairs
17 Division. They want to use that type of process. I just
18 told them basically what was required and drafted a
19 special order that Captain Ober made. Bits and pieces of
20 it, I didn't go through the whole thing.

21 Q: Okay, well what is involved in this
22 supervisory inquiry, any documentation there?

23 A: Yes sir. They do, it's done on
24 correspondence which is called an STD-501. Which is
25 subject, to/from letter.

1 Q: Can you stop there for just a second?

2 A: Yes sir

3 Q: Supervisory inquiry is initiated by a
4 supervisor, am I correct?

5 A: It can be initiated by a supervisor or a
6 Commander.

7 Q: Somebody, authority individual in the
8 chain of command.

9 A: Yes sir

10 Q: Now you weren't above Captain Ober in
11 the chain of command at that time. Were you?

12 A: No

13 Q: Well did what you initiated in June of
14 1999 was what you initiated at that time was that a
15 supervisory inquiry? Is that what you're telling us?

16 A: To the best of my knowledge, yes.

17 Q: Well how? What knowledge, what facts
18 know to you initiate that that was a supervisory inquiry?

19 A: That was what Major, I think it was
20 Wertz told me that they were gonna use.

21 Q: That they were gonna use?

22 A: They mean the process that they were
23 gonna use to document.

24 Q: Right, that's the process they were gonna
25 use to define of describe this investigation.

1 A: Correct

2 Q: Where's the to/from letter?

3 A: Say again

4 Q: Where's the to/from letter? Is there any
5 to/from letter? Did the Commissioner, did he write up
6 some letter? Did he write anything down?

7 A: I'm misunderstanding you. The to/from
8 letter from the Commissioner?

9 Q: Sure. He doesn't have

10 A: No, see maybe I can clarify this for you.

11 Q: Yeah

12 A: Like if I'm assigned to do a supervisory
13 inquiry, I would document what information I gathered
14 during the course of the inquiry on a subject, to/from.
15 So that would be the responsibility of the person
16 assigned to investigate it.

17 Q: Well, there is a file on this then, right?
18 There's a file on, there's a BPR on this then?

19 A: Well there was a control number issued
20 on that, correct.

21 Q: Well have you seen it? Do you have it
22 there in your files?

23 A: No

24 Q: You don't have the investigation?

25 A: Well let me talk to my attorneys.

1 Q: No, no, no

2 A: I'm gonna talk to my counsel about it.

3 Q: Look I'm gonna object. Now wait.

4 OPOSING COUNSEL: No

5 MR BAILEY: There's a question on the table.

6 That's alright. I'm not gonna stop you can talk to her.

7 MR BROWN: I understand sir

8 MR BAILEY: I have to do my job. All I'm

9 asking you I'm not asking you what's in it.

10 OPPOSING COUNSEL: No the issue

11 MR BAILEY: Please let finish my

12 OPPOSING COUNSEL: The issue is where

13 that's part of attorney work product. That's the issue.

14 MR BAILEY: You're now claiming, are you now

15 claiming counsel that an investigation done before March

16 of 2001 is part of attorney work product?

17 OPPOSING COUNSEL: No

18 MR BAILEY: You're not serious are you?

19 OPPOSING COUNSEL: That his knowledge of it

20 would have been post March of 2001, and you asked him

21 about his knowledge of it "Do you have it in your file?".

22 MR BAILEY: Now wait a minute.

23 OPPOSING COUNSEL: That's part of attorney

24 work product.

25 MR BAILEY: Now wait a minute. How do you

1 know his would have been, and he hasn't been told that
2 has he?

3 OPPOSING COUNSEL: Because I've talked to
4 him about it.

5 MR BAILEY: Have you? Okay let's put the
6 question this way. Prior, cause this is our groundwork at
7 all times here. Prior, and I again strongly object to the
8 use of this attorney work product artifice which is what I
9 believe it to be. But prior to March or April 2001 were
10 you aware of the existence of any BPR or investigative file
11 on this matter?

12 A: I didn't see

13 Q: It's smart to be quiet sir

14 A: No, let me tell. You know I did not see. I
15 know that Major Williams and Major Wertz were assigned
16 to look into it. What documentation or what ever they
17 end up doing I had no knowledge of at that time.

18 Q: So as you sit here today, your testimony
19 is that prior to March or April of 2001 you don't have any
20 fact to indicate that there was a file physically composed
21 that was placed into IAD or BPR files. That's what you're
22 telling us.

23 A: What I'm telling you the only thing that I
24 had in BPR is the complaint sheet that I wrote up with
25 the number on it. Nobody ever came and said here's a

1 report. I never, all I had was that worksheet that's it.

2 Q: Let's go back to, you had indicated that
3 at various times during before this number was assigned
4 and you indicated that it was apparently a supervisory
5 inquiry number.

6 A: Well the control number, maybe I can
7 explain this to help out here.

8 Q: What is a control number?

9 A: It's a sequential number. It use to be
10 just one through whatever, and at some point and time I
11 don't know if it was Captain Ober if he changed it or if it
12 was even before him. I don't know. I don't remember
13 this, but we started doing it by year. So it would be like
14 1999-1 and then up through to the end of the year.

15 Q: Do you remember the number of this file,
16 the number, the control number?

17 A: I'm thinking it's 1999-503.

18 Q: And at the end of 1999 what was the last
19 number you remember?

20 A: '99 I think we were over a thousand I
21 think. I'm think like a thousand something.

22 Q: Alright sir go back. You were explaining
23 to me the way this control number was assigned.

24 A: Oh, and maybe I can clarify. I've been in
25 the Internal Affairs Division since 1994. So I've seen

1 some changes in processes along the way. When I first
2 came to Internal Affairs complaints that would come in
3 that didn't rise to the level of where a Commanding
4 Officer was seeking disciplinary action

5 Q: Can you hold one-second sir?

6 A: Yes sir

7 Q: Thank you

8 MR BAILEY: Okay you were at a point were
9 you had indicated. I just made a little change there. You
10 were at a point were you had indicated that it was not a
11 situation where a Commanding Officer was looking at a
12 disciplinary

13 MR BROWN: Right as I said it was a demininis
14 complaint, something very minor. It would come in or
15 even if we had a complaint from a citizen, and it was like,
16 let me think of a good example.

17 Q: Chewing bubble gum in my face.

18 A: Well not even that. Just the trooper
19 when he pulled me over was intimidating. Well you
20 know, the uniform it's self would be intimidating to
21 people, but that didn't in it's self describe misconduct.
22 But yet, what we would do is I would send the
23 information with just a note saying handle anyway you
24 deem appropriate. Which may mean do nothing. Which
25 may mean call the guy in and say hey be a little less

1 aggressive or whatever that may be. That information
2 was stored and kept in a separate database and it was
3 given what we called an event tracking number. It did
4 not go into the, it was not given a BPR or an IAD control
5 number. It was given a separate number because it was
6 deminimis and it didn't get kicked in the system of
7 something that may be warranting a formal action, a
8 formal discipline. I don't know if Captain Ober started
9 this or not or if it was started right before he took over,
10 but when I took over as acting the supervisory inquiry
11 process was already in place and up and running.
12 Everything, the way it use to be done we didn't put IAD
13 numbers on things that were going back to the troops to
14 handle how they saw fit. Now everything got a number
15 so of course the numbers went up, and I think that's why
16 they categorized it. I think the decision was made to get
17 the year and just go sequentially from there.

18 Q: Well then why didn't they complaint
19 forms instead of you? Why you'd do them?

20 A: I just thought I was...just record keeping.
21 There's no

22 Q: Well did they indicate they were gonna do
23 it?

24 A: Who's they?

25 Q: Mr. Williams and Mr. Wertz. You're the

1 guy that initiated the formal process of giving this thing a
2 number, right?

3 A: I gave it the...I put the...well as far as.
4 Major Conley told me in May that the Commissioner
5 requested an investigation. So I didn't initiate that that
6 was already

7 Q: The investigation began

8 A: Okay I don't know when they actually
9 started working on it.

10 Q: Let's go back to your testimony. You
11 indicated that at some point at least, Mr. Wertz and Mr.
12 Williams came in to look at the Stanton investigation,
13 product, stuff that came in.

14 A: Right

15 Q: Let me ask you a few questions about
16 that before we move on. What gave Mr. Wertz and Mr.
17 Williams authority to look at the Stanton stuff? Where
18 did they get the authority to do that?

19 A: I don't know.

20 Q: Well

21 A: As investigators they're required to
22 investigate. I mean I

23 Q: Well

24 A: They're Majors they were given an
25 assignment. It was for me to be in their way.

1 Q: Okay. Well if I understand correctly,
2 Captain Ober had sent in some kind of complaint sheet

3 A: Correct

4 Q: on Mr. Stanton.

5 A: Correct

6 Q: You know when that came in?

7 A: My recollection is, he faxed that to me on
8 or about May 19th of '99. I'm thinking is when it was,
9 the 19th of May.

10 Q: And at that time he was, is the word
11 detached to IIMS?

12 A: I believed that's what he has described,
13 yes.

14 Q: Okay whether he was or not he was doing
15 IIMS stuff.

16 A: That's correct

17 Q: And to the best of your, well your not
18 sure, but to the best to your knowledge that was either
19 directly or indirectly at the Commissioner's request. Is
20 that correct?

21 A: It was indirectly...

22 Q: Either directly or indirectly to the best of
23 your knowledge at the Commissioner's request.

24 A: That, we were talking about the
25 complaints

1 Q: Of Mr. No of Mr. Ober being with IIMS

2 A: Oh, oh that. Okay I'm sorry I
3 misunderstood you. Yes as far as I know. I recall seeing
4 a CLEAN message.

5 Q: Okay. Alright. So Mr. Ober sends you a
6 complaint as to Stanton. Did you call him or talk to him
7 or ask him why?

8 A: Who? To Captain Ober?

9 Q: Captain Ober, yeah. Captain Ober sent
10 you, faxed you some type of complaint thing having to do
11 with Stanton, right?

12 A: Right

13 Q: Okay, did you call Captain Ober? Did
14 you talk to him why or ask him any questions? You just
15 more or less handled it the standard procedure.

16 A: Yeah pretty much. I think he practiced
17 sending that to me with a phone call. I think he called to
18 make sure I was there to get it, and then it came in by a
19 fax.

20 Q: Okay but

21 A: Just handled it. I mean that would be
22 something that the assigned investigator in our western
23 section would be responsible for doing as a part of their
24 investigation.

25 Q: Did you ever seen any communications

1 from the Commissioner to look into Stanton?

2 A: From the Commissioner, no.

3 Q: How about Mr. Coury?

4 A: No

5 Q: How about Mr. Williams?

6 A: No

7 Q: How about Mr. Wertz?

8 A: No

9 Q: How about Mr. Westcott?

10 A: No

11 Q: How about Mr. Conley?

12 A: No. I just processed that and that would
13 be one that because of the serious nature that the
14 Internal Affairs Division would want to look at.

15 Q: Well Captain Ober was out at IIMS, right?

16 A: Correct

17 Q: Until Captain Ober notified you of
18 Stanton you didn't have any idea that the FBI had been
19 looking at Stanton, right?

20 A: That's correct

21 Q: Okay so you get this thing from Captain
22 Ober to take a look at Stanton. Did you ask any
23 questions or say that the FBI conducted? I mean what
24 did that thing say?

25 A: My recollection of the complaint sheet

1 that he sent me was that he got information from an
2 agent Kush from the FBI that the subject was involved in
3 some type of, I don't know if it was worded "job selling" or
4 "political corruption" or something like that. I think it
5 had on there something to the effect it was being turned
6 over to us to move forward with it.

7 Q: Okay

8 A: Something to that effect.

9 Q: Now under Pennsylvania State Police
10 regulations are investigations into political or public
11 corruption treated in any kind of a special way?

12 A: Treated in a special way as far as what
13 sir?

14 Q: I'm saying like an organized crime inquiry
15 or something like that?

16 A: Oh, they could be yes organized crime.
17 We have, the Bureau of Criminal Investigation. The
18 Organized Crime Division of that bureau looks into that
19 sort of thing. That's who ended up investigated into
20 Stanton.

21 Q: They ended up investigating Stanton?

22 A: Yes

23 Q: So somebody evaluated that thing, that
24 complaint from Captain Ober.

25 A: Absolutely

1 Q: And it was, well do you know who did?

2 A: It would be the western office of the
3 Organized Crime Division. I think it was Corporal Jeff
4 Shall was the primary investigator on the criminal
5 allegations against Stanton, and then the Internal Affairs
6 western office handled the administrative end of it.

7 Q: Were you familiar with field regulation
8 7-4 effective date 12-23-96 titled Pennsylvania
9 State Police department directive subject, undercover,
10 vice drug, and organized crime operations?

11 A: I know it exist, but I'm not familiar with
12 it. I mean I'm not, I can't sit here and spout all the
13 things that they have to do.

14 Q: Of course. Okay now, do you know
15 whether Mr. Wertz and Mr. Williams were aware that the
16 Stanton thing had been assigned to the Organized Crime
17 Division?

18 A: I don't know if they were aware of that?

19 Q: Well what were the records on and the
20 Stanton stuff doing up at, was it Harrisburg? Is that
21 were they came by? Is that were your office was? Let me
22 tell you were I'm coming from so you know again. See
23 here's Captain Ober now, he sends in this
24 communication sometime on or about the 19th of May.
25 It's about public corruption. It's about FBI probed, job

1 selling, something of that sort. Mentions in fact the FBI
2 agent Cush. I'm gonna ask you in a minute if you ever
3 called Mr. Cush and talked to him. Now, it's sometime in
4 June when this number gets assigned to, I don't know
5 what else to call it, the Ober investigation I guess. Well
6 the investigation into these events. What events I'm not
7 quite sure, but in any event the FBI probe. I mean this is
8 a probe into a probe. I wonder if that calls for an
9 exponent, but the point is that Mr. Williams and Mr.
10 Wertz come in and they drop by. They don't announce
11 and they're just checking on, on what? Why isn't this
12 investigative product out with the Organized Crime
13 Group or is it being copied into Harrisburg? Can you tell
14 me why you have. If the Stanton stuff is an Organized
15 Crime issue, which according to PSP regulations I've
16 looked at it should have been and apparently was and
17 that's sent out to western Pennsylvania what's all that
18 stuff doing in Harrisburg? What's going on?

19 A: What I recall when I got the complaint
20 sheet from Captain Ober my biggest concern was what do
21 we have. I mean what really do we have, and the only
22 way to know what we had was to get information from
23 the FBI. So I can't remember, I think it would have,
24 sometime at the end of May or early June I know that
25 Lieutenant or not Lieutenant, Sergeant Sifner met with

1 the FBI and they turned over like a box. I mean they
2 gave the stuff to her. A box of tapes and I think there
3 was some reports in there, and she, I don't remember. I
4 think she ended up driving them in and was like this is
5 what they gave me now what do I do with this stuff. I
6 was like well we don't know what's really there. We're
7 gonna have to get some transcript done up and that sort
8 of thing. Somewhere along the line

9 Q: You're telling me the FBI gave you this.
10 Now I don't mean that directed at you. Forget it.

11 A: I understand

12 Q: I'm thinking about the FBI. The FBI give
13 you a box of stuff and you don't know whether they had
14 reduced it to transcription.

15 A: No we ended up doing our own. We
16 ended up transcribing it ourselves. They didn't give us
17 transcripts.

18 Q: Did somebody stop this investigations in
19 process?

20 A: Stop what investigation? Which one?

21 Q: Stanton and this public corruption.

22 A: No

23 Q: Do you know if anyone every interfered
24 with it?

25 A: No

1 Q: Do you know if the Commissioner ever
2 interfered with it?

3 A: No

4 Q: Do you know if anyone in the FBI ever
5 interfered with it? No that they would ever do such a
6 thing.

7 A: No

8 Q: Okay. Well, do you know whether there
9 are state politicians mentioned in that investigations?
10 Elected Officials sir. Do you know whether there was a
11 Pennsylvania State Senator mentioned in that
12 investigation?

13 A: I have to think about that one for a
14 minute sir.

15 Q: Do you know a Senator Leonard Bodack
16 sir?

17 A: I don't know him. No sir.

18 Q: Do you know whether he was mentioned
19 in that investigation?

20 A: I think he might have been.

21 Q: Okay. Do you have a recollection of any
22 state representatives that may have been mentioned in
23 that investigation?

24 A: I think there was a referenced made to a
25 Representative from the Pittsburgh area, but I don't know

1 the name.

2 Q: Preston, something like that? Do you
3 know?

4 A: Could have been.

5 Q: Well when this FBI product came in you
6 say there was some tapes and stuff in there and you had
7 to do your own transcription?

8 A: Well what ended up happening I think
9 there was like twenty-one or twenty-four tapes, and the
10 administrative officer in our, well the administrative
11 assistant typed some of them up and I think there was
12 another secretary that was involved in typing those up.

13 Q: Why?

14 A: Why?

15 Q: Yeah

16 A: To have a transcript of what's on the
17 tape.

18 Q: Why didn't you send it out to the
19 Organized Crime Division? I mean so if I understand
20 what you've told me correctly, somebody from the
21 Organized Crime Group brought it up to Harrisburg and
22 into your office.

23 A: No, Internal Affairs brought it. The FBI
24 turned it over to Internal Affairs and they brought it to
25 me.

1 Q: Okay

2 A: It was dropped on my lap.

3 Q: I see

4 A: More like, here's this box of stuff

5 Q: That must have been fun.

6 A: and the FBI's out of it kind of thing.

7 Yeah, and I'm like what the heck do we have here.

8 Q: Okay. So in order for you to properly
9 evaluate it you needed to look at this FBI work product,
10 investigatory product.

11 A: Right

12 Q: Now do you know at that point whether
13 Mr. Stanton was aware that he had been investigated?

14 A: I don't know that.

15 Q: You didn't listen to the tapes you had
16 them transcribed?

17 A: Right

18 Q: Did you call up Mr. Kush?

19 A: No

20 Q: You did not. Did you talk to any
21 FBI agents?

22 A: No

23 Q: May I ask, I'm not suggesting you
24 should have by the way, I don't know. Is there
25 some reason why not or would there have been any

1 reason?

2 A: Well the reason being as the acting
3 Director and running my section I don't have the
4 time. That was delegated to the Internal Affairs
5 West. They would have to arrange, this was
6 western Pa. They would have to arrange a meeting
7 with them, getting information, and documenting
8 what's going on with the Stanton thing.

9 Q: Okay. Did Mr. Wertz or Mr.
10 Williams come in and review any of this stuff?

11 A: Review any of this?

12 Q: Sure

13 A: Yes, the transcripts that we made
14 from the FBI tapes, yes.

15 Q: Okay. Alright, when did you get this box?
16 Is it Dana brought it up? Sergeant?

17 A: Sergeant Seifner

18 Q: Seifner, Dana Seifner.

19 A: And she's now retired.

20 Q: God bless her. Did Sergeant Seifner she
21 brought these up to Harrisburg, and do you remember
22 when that was?

23 A: Not to my recollection on that sir. It
24 would have been like late May early June.

25 Q: And it was before the control number was

1 put on to the investigation into Mr. Ober, right?

2 A: Before Mr. Ober, yes

3 Q: Okay. Now how long did it take you to
4 transcribe these tapes?

5 A: It was a time line probably of, I'm
6 thinking a week to two weeks.

7 Q: Okay

8 A: I know it was like, I think it was like
9 mid-June before they were done.

10 Q: So before the control number, well let me
11 ask a question. Did Mr. Wertz and Mr. Williams come in
12 and look at this stuff before a control number into Ober
13 was put on it?

14 A: I'm not sure of that sir. They could have.
15 I'm not sure.

16 Q: Well some time on

17 A: I mean they didn't like tell me when they
18 were doing things. You know, I know the tapes were
19 done, were typed up. When they actually looked at those
20 I'm not sure.

21 Q: Okay. That's alright.

22 A: I'm sorry

23 Q: That's okay. If you don't know you don't
24 know. Now, so at the time that this FBI investigatory
25 product comes in to the department up to your office.

1 There are really two investigations in progress. One into
2 Stanton initiated by a complaint that came from Captain
3 Ober.

4 A: Correct

5 Q: and one into Captain Ober.

6 A: Correct

7 Q: Well, did anybody ever tell you what
8 Ober had supposedly done wrong that warranted an
9 investigation? Did you ever ask? Did anybody ever say
10 what the Commissioner wanted to investigate him for?

11 A: No, the only thing that Major Conley told
12 me was that the Commissioner wanted an investigation
13 to get the facts on what happened with this FBI,
14 whatever you want to call it, probe or FBI investigation
15 into Stanton kind of thing. I wasn't a part of any
16 meetings or anything like that. That was just told to me
17 by my boss.

18 Q: Well did you ever tell any of these people
19 that what they were doing was wrong?

20 A: No

21 Q: Did you ever express any opinion to
22 them?

23 A: I mean I didn't have the facts. I mean

24 Q: I'm not say you should have sir.

25 A: I understand

1 Q: I'm not saying you did.

2 A: But no

3 Q: It's not my role. I'm not sitting here in
4 judgement of you. I'm just asking questions here.

5 A: I mean I don't know what was done.

6 Q: Yes sir. I don't want you to think that I
7 have, I'm probably, I'm not good enough of a lawyer I
8 guess that I can't hide feelings about things very well and
9 I apologize to you for that. But I don't want you to think
10 I'm sitting here being critical to you.

11 A: I'm not taking it that way.

12 Q: Okay. I just have to ask these questions
13 it's my job. Okay, did you ever have, do you have a
14 recollection Rick of having a conversation with Darrell
15 Ober about the investigation into him or anything
16 relating to the investigation into him?

17 A: Yes I had a conversation with him it was
18 very brief. I think it was over at the IIMS building, and
19 Captain Ober and this happened more than one occasion.
20 I'm think maybe twice. He said to me just hey I didn't do
21 anything wrong, and I just, my response to that would be
22 well then what are you worried about. If you didn't do
23 nothing wrong don't. I know he's still gonna be my
24 Captain. I'm still his subordinate. We work together. I'm
25 encouraging the men. Hey if you didn't do nothing wrong

1 don't worry about it. Everything will take care of it's self,
2 and I know I mentioned to him that I had talked with the
3 investigator briefly. I was kind of making light of the
4 situation caused I had mentioned to him they weren't
5 gonna give him the legerity warnings or something to that
6 effect. I kind of ended it there and I left it alone cause I
7 thought we both, you know we both, and Captain Ober
8 went out of his way to keep me out of this. So it was
9 kind of like bits and pieces of conversation. I had kind of
10 chuckled when I mentioned that because Major Wertz
11 and Major Williams were Area Commanders, and as Area
12 Commanders I don't know how long since they did an
13 investigation but the process they were using was created
14 by Captain Ober. The process called garidy warnings.
15 This was an agreement to my understanding he made
16 with the union. I kind of chuckled because you're gonna
17 have to follow the process that he made.

18 Q: Okay, but what. Okay I understand that.
19 And you're passing this on to Captain Ober more or less.

20 A: Right

21 Q: I guess what you're describing to us to
22 some extent speaking in tongues.

23 A: Yes

24 Q: Sort of the way the people do when they
25 don't want to address and tip-toe around the point more

1 or less.

2 A: Right

3 Q: Is that fair to say?

4 A: Yes sir it was kind of that. It was kind of

5 Q: Awkward

6 A: Right it was very awkward, and I could
7 tell it was awkward for him too.

8 Q: Okay. How did it come up?

9 A: I think it came up like I said initially he
10 said to me I didn't do anything wrong.

11 Q: He sees you. He passes you. Let me lay
12 a little foundation. Captain Ober at all time has always
13 treated you with respect and with, you know respect and
14 affection. It's fair to say that the two of you were not just
15 in a relationship were he had title and position and you
16 had title and position, but obviously between the two of
17 you there was a decent honest proper repore that was a
18 good healthy thing. Is that fair tot say?

19 A: Yes sir.

20 Q: Okay

21 A: In both ways, absolutely.

22 Q: Yes sir, and he had certainly never been
23 anyone who had obstructed or harmed you or interfered,
24 and you never had the impression that he would interfere
25 with your career plans or anything like that.

1 A: No sir.

2 Q: And put frankly those kinds of feelings,
3 that feeling of respect was reciprocal. You felt the same
4 way towards him.

5 A: Absolutely

6 Q: Alright, and has someone's who's
7 obviously a sensitive and intelligent individual you had
8 your ambitions and you had your proper respect for
9 duties and indented to perform you job correctly.
10 Correct?

11 A: Correct

12 Q: And you would expect no less of him?

13 A: Correct

14 Q: Is that fair to say?

15 A: Yes sir

16 Q: Alright now with that situations people
17 who are decent respectful friends and respect each other
18 in an organization which is how it should probably
19 ideally be at all times. How did this I didn't do anything
20 wrong, I mean did anything preface this comment I didn't
21 do anything wrong? What or how did it come up? I
22 mean after all he

23 A: Well you know what I'm thinking.

24 Q: Go ahead

25 A: I'm thinking it came up cause Captain

1 Ober, I'm gonna go back to, I'm gonna say May, June. I
2 think he gave me a videotape. I think he gave me a
3 videotape and he had given me something. I don't recall
4 exactly all what it was. Maybe part of a report, an FBI
5 report, a tape. There was a couple items he gave to me.

6 Q: What was that about?

7 A: I think that had in relation to Stanton, to
8 the Stanton issue and also he had said to me that he was
9 gonna give me a supplemental report. I think that might
10 have been what prompted this conversation, because I
11 was over at the IMMS building and I don't remember if I
12 was something from him something else, but I know he
13 gave a report. It wasn't on an Official State Police form.
14 He had put the Stanton control number and it was typed
15 up. It wasn't dated, and it talked about his contact with
16 the FBI so on and so forth and I got that from him. I'm
17 thinking that might have been you know I didn't do
18 anything wrong kind of thing.

19 Q: Okay, but that would have been
20 something that occurred after Williams and Wertz?

21 A: After?

22 Q: Sure. After you will aware that Williams
23 and Wertz were looking into the case.

24 A: Oh that, yes

25 Q: Okay and it would have been after Mr.

1 Conley talked to you.

2 A: Yes

3 Q: Alright so what did you do with that
4 stuff?

5 A: What I did with the paper?

6 Q: No, your recollection is he gave you
7 something.

8 A: Right

9 Q: And it's not clear to me yet why he did
10 that, but it's your testimony that he did that. What did
11 you do with what he gave you?

12 A: I put it in with the file.

13 Q: Well didn't you call Mr. Williams or Mr.
14 Wertz and say here?

15 A: Yes. I did that too, yes.

16 Q: Okay and what did they say to you?

17 A: Nothing

18 Q: Did they ask you what Ober said?

19 A: No

20 Q: Did you make an admission, did Mr. Ober
21 make an admission against interest?

22 A: No

23 Q: Nothing like that?

24 A: No. I think what I did with that is when
25 Captain Ober, cause by regulation he's required to

1 document this sort of thing, and I think he was fulfilling
2 his obligation by preparing this report to make it a part of
3 the investigation into Stanton. When I got that I
4 remember sending a copy to Major Williams, I believe it
5 was.

6 Q: In other words what he was doing was he
7 faxed this complaint form in. So what he's doing is giving
8 you what he's got whatever it might be that is connected
9 to or would support this complaint form.

10 A: Well the worksheet he submitted was
11 very, it was just a paragraph.

12 Q: Okay

13 A: What he gave me, I think it was two
14 pages. Or at least a page and a half to two pages of
15 information that wasn't on the complaint sheet.

16 Q: Right

17 A: But it was more specific stuff.

18 Q: Sure, but it was a follow-up to the
19 complaint sheet

20 A: Yes

21 Q: Right that he faxed you.

22 A: Correct

23 Q: Alright. So there was nothing secret or
24 improper on either on of your parts. That's something
25 that was obviously become part of the Stanton thing,

1 right?

2 A: Correct

3 Q: Okay.

4 TONY MARCECA: 5th of March, 2002, we're
5 back on camera. The break was from 10:15 to 10:40.

6 MR BAILEY: In this box that came up, how
7 many tapes were in this box? If you remember. You said
8 something like about dozen. Something like a dozen or
9 something.

10 MR BROWN: It was, I'm not sure of the exact
11 number, but I would say between twenty and twenty-
12 four.

13 Q: Okay

14 A: Somewhere in there.

15 Q: Why were there two investigations? If
16 you know that answer to this of course. Why were there
17 two investigations an investigation into Ober and an
18 investigation into Stanton now at this point?

19 A: The Stanton investigation, well at the
20 time, we didn't know what we really had. So there was
21 gonna be an investigation into that. Then the other, my
22 understanding is that the investigation or inquiry was at
23 the request of the Commissioner as far as the facts and
24 circumstances surrounding the FBI thing.

25 Q: Now at some point was there a BPR done

1 on Stanton?

2 A: Oh, yes sir.

3 Q: And that was initiated when?

4 A: What had end up happening is that when
5 Captain Ober on it, try to gather some information. BCI
6 ends up investigating it. When the criminal prosecution
7 then the administrative kicked in. The administrative
8 investigation was done, I don't recall when it was done
9 sir, but it was completed.

10 Q: Now Stanton ended up, I hate to use the
11 term "beat the charges", but Stanton prevailed based on
12 certain technical defenses as I understand it.

13 A: Yes sir. That's my understanding.

14 Q: Did those technical defenses have to do
15 with the way evidence was handled by the FBI or the
16 State Police? Do you know?

17 A: From what I understand of this is that
18 the FBI did wiretaps under federal standards and then
19 when they turned it over our Pennsylvania Constitution
20 or something to that effect give more right and privileges
21 in that area. We could not use their wiretaps in a state
22 prosecution I think is how it went.

23 Q: Okay, and that had to do with the wires
24 that were wore by informants and that sort of thing
25 Pennsylvania's warrant standards etc.

1 A: To the best of my knowledge sir, yes.

2 Q: Okay. Well do you know why the Feds
3 didn't prosecute Mr. Stanton?

4 A: I don't know

5 Q: Do you know whether they ever did?

6 A: The only thing I know is that our BCI
7 brought, Bureau Criminal Investigation, Organized Crime
8 Division brought Charges against Stanton.

9 Q: You do know if the FBI ever investigated
10 him?

11 A: Stanton?

12 Q: Yeah. I don't mean investigated, ever
13 charged him. If he were charged on a federal, did any
14 Federal Grand Jury ever bring him in?

15 A: Not to my knowledge, no.

16 Q: Do you know whether the Federal Grand
17 Jury ever investigated or the FBI ever investigated the
18 Pennsylvania Elected Officials involved?

19 A: No. I don't know that sir.

20 Q: Did you ever come to learn if the Federal
21 Bureau of Investigation did any investigation into, a
22 broader investigation into the Stanton matter then just
23 whether Stanton was involved. In other words, into
24 practices in the Pennsylvania State Police Academy
25 appointment process anything like that.

1 A: That the FBI did?

2 Q: Yeah

3 A: No

4 Q: Did you ever become aware of why the
5 FBI shut down the investigation or ended it better yet?

6 A: I think I got that. That was on the
7 complaint sheet that Captain Ober summated. That they
8 were done and was turning it over. I think that's, I was
9 under the assumption that they were through with it
10 that's why he was...

11 Q: Right, but my question is do you know
12 why they were through with it?

13 A: Oh, no

14 Q: Why the FBI concluded it without
15 prosecuting?

16 A: No sir, I don't.

17 Q: Do you know if there were ever any
18 conversations between Mr. Evanko and Louie Freed?

19 A: No I'm not aware of that sir.

20 Q: I may be miss, I can't remember. You did
21 or did not have conversations with the FBI agents
22 involved?

23 A: I did not speak to the FBI agents.

24 Q: Do you whether Mr. Williams did?

25 A: I'm not sure if he did or not.

1 Q: How about Mr. Wertz? Do you know
2 whether he did?

3 A: They may have, but I can't say with
4 certainty.

5 Q: Okay. You had indicated some
6 knowledge or experience with the evaluation process
7 when a complaint arises. Let me more specific. A
8 Complaint arise from a citizen.

9 A: Correct

10 Q: and let's say it's one of these things you
11 refer to as a demininis. You know the officer intimidated
12 me. So you know out of respect for the civilian inquiry
13 you do some checking into it or whatever. That's a
14 process that has to do with evaluating the complaint,
15 right?

16 A: Correct

17 Q: Now, initially on it's face there are
18 probably many circumstances where you can tell that
19 something is you know, general and rather demininis by
20 nature. In other word a complaint comes in and it says
21 the officer intimidated me and that's all it says. You pay
22 it a proper respect and you check it out, right?

23 A: Well if it's from a citizen we'll send them
24 the complaint verification. I've seen in my experience
25 that when the complaint verification it is more specific

1 then what we had, and it may articulate something that
2 requires an investigation.

3 Q: But if somebody wrote into you and say
4 the officer opened up the door, and I'm not suggesting
5 anyone ever did this, but the officer opened up the door
6 and pulled me out and slapped me and threw me back in
7 the car. Now obviously prime affection right up front
8 you're going to look at that and say if this is true that's
9 serious, right? All other things being equal. If it's just a
10 traffic stop for speed, and I swore at the officer and called
11 him a name. He dragged me out of the car and slapped
12 me and threw back in the car. Now you know, people
13 shouldn't swear at police officers obviously, but that
14 wouldn't justify, in a hypothetical situation now, wouldn't
15 justify dragging them out of the car and slapping them
16 and throw them back in the car, right?

17 A: That's correct.

18 Q: Okay, now. So if you look at a complaint
19 like that on the face of it, one the officer intimidated me.
20 You know it might be demininis and probably is. But if
21 he says he struck me, hit me, or assaulted me, or
22 something like that obviously you look at that and say
23 hey you know, all things being equal if there isn't some
24 reason for the use of force like that that's not proper and
25 that's more serious. Am I correct?

1 A: Correct

2 Q: Okay. Now what reasons, as you sit here
3 today now remember we're not suppose to be talking
4 after March of 2001.

5 A: Right

6 Q: But you know, which I object to but
7 that's alright. Before March of 2001 what were the
8 reasons as you sit here today? What were the reasons
9 that occurred to you that justified looking into Captain
10 Ober? What was it about? Use your own language. Tell
11 us what it was about. What has he done?

12 A: Back then sir all I know is that Major
13 Conley told me that the Commissioner wanted a
14 gathering of the facts, get the information on what
15 occurred. I missed the second part of your

16 Q: Yeah what was the reason for it?

17 A: Oh

18 Q: I mean, you're a bright guy you've been
19 around for awhile you're a police officer. You're very
20 articulate gentlemen, and you're a career officer. You're
21 in the Pennsylvania State Police. That's your career and
22 your life.

23 A: Right

24 Q: You carry a lot of pride in that don't you?

25 A: Uh-mum

1 Q: Cause you should. Fine organization and
2 you take pride in that, right?

3 A: Correct

4 Q: They're checking into a Captain over
5 what? I mean, this is supervisory inquiry sir. You told
6 us about that. You told us about those BPR things. You
7 know, you investigate people for reasons. I'm trying to
8 find the reasons, and then through all this litigation, I
9 want to confess to you, I haven't found a reason. So I'm
10 asking if you could tell me what the reason was.

11 A: Like I said sir I was given the comment
12 from Major Conley as far as what others. I mean, I don't
13 who all was involved. I mean, I don't know sir.

14 Q: Up until March at least, we don't know
15 what you may have learned since then. Up until March
16 2001 you didn't know the reason the Commissioner
17 wanted Mr. Ober investigated. Is that fair to say?

18 A: Well

19 Q: If so tell us.

20 A: Right, the fair way to say

21 Q: Yeah

22 A: is that the Commissioner wanted to
23 ascertain the facts.

24 Q: Okay. Now do you know if there was any
25 written information provided by the FBI as to why they

1 did the investigation? What originated it?

2 A: On Stanton?

3 Q: Yeah into Stanton

4 A: Yes I got a copy of their FBI report.

5 Whether or not it's everything that they have I'm not sure
6 of, but I mean I have some stuff. There was some stuff,
7 some documentation provided by the FBI to Lieutenant,
8 or Sergeant Seifner excuse me.

9 Q: Well, do you know whether or not anyone
10 ever ask the FBI why they went to Captain Ober as
11 opposed to directly to the Commissioner?

12 A: I don't have any knowledge. I mean I
13 didn't talk to the FBI. I don't know what

14 Q: When the FBI does an investigation and
15 informs the Pennsylvania State Police what procedure do
16 they usually follow?

17 A: Well it depends on what, I'll give an
18 example. When I was a criminal investigator in Troop H I
19 worked with the FBI on some bank robberies. It's just
20 law enforcement agencies working together. We were
21 familiar with the special agent in charge here in
22 Harrisburg when I worked in the crime room, and if we
23 had a criminal investigation. I can think of one case in
24 particular. It was a bank robbery. We got information
25 there was gonna be a bank robbery, and the suspects

1 were from Pennsylvania, leaving Pennsylvania to go to
2 Maryland, and we did surveillance. We contacted the
3 FBI. There was nothing special about the working
4 relationship. We were just fellow officers, and we did end
5 up making arrests on it.

6 Q: Well in this case do you have any
7 information known to you that the FBI had some reason
8 to go to IAD?

9 A: No sir

10 Q: Well, I mean you don't have any facts
11 known to you, which would indicate that the FBI for
12 personal reasons because they just liked him? It was by
13 virtue of the fact that he's sitting there as Director of IAD.
14 Is that correct?

15 A: How the hell they came up with him is
16 unbeknownst to me. All I know is at the time is what he
17 put on that work sheet was that he was contacted by the
18 FBI in '98.

19 Q: Well when you evaluated the Stanton
20 stuff when it came in you learned that there were
21 potentially elected officials involved that the FBI had
22 some probable to look at that, and didn't they mention
23 the Governor's Office?

24 A: I don't recall any mentioning of the
25 Governor's Office.

1 Q: Well, do you know whether Mr. Evanko
2 ever indicated that there was an interest in the
3 Governor's office when he talked to Mr. Campbell or
4 people in the Governor's Office?

5 A: I don't know who Colonel Evanko talked
6 to. I had no discussions with him.

7 Q: Okay. Did you read the FBI 302's?

8 A: You say the 302's is that their report?

9 Q: Yeah they do a

10 A: Okay

11 Q: The FBI you know, the most modern
12 investigative agency in the greatest nation on Earth.
13 They don't tape inquiries. They don't tape interviews.
14 What they do is they take two agents and they sit down
15 with somebody and they take notes, and everybody in the
16 world wonders why they do that. No one can figure it out
17 of course, but there's no record. So you rely on what the
18 FBI says was said. That's what happens, and then they
19 do a 302. Then of course if you try to get their notes to
20 back up their 302 they fight against that. Some day the
21 law in the Unites States will change. Who knows, but at
22 this time they do 302s, and their 302's are a form that
23 they use and that form is like the agent's, like a report
24 that you do. Do you have a recollection of reading the
25 302s in this matter when this stuff came up for Stanton?

1 A: I have a recollection of looking through it
2 yes.

3 Q: And you don't recollect any mention of
4 the Governor's Office?

5 A: No I don't

6 Q: Now do you have a recollection of the
7 302s mentioning elected officials?

8 A: When you mentioned earlier about
9 Bodack, I remember that name I think being mentioned.
10 I can't remember if it was in the FBI 302 or the transcript
11 of the intercept.

12 Q: Do you remember in any of the intercept
13 or any of the wire? Let's do it the easy way. You don't
14 have a recollection of the Governor's Office being
15 mentioned anywhere.

16 A: No I don't

17 Q: Now if that had been mentioned would
18 that have triggered any bureaucratic response? If the
19 Governor's Office had been mentioned.

20 A: A bureaucratic response?

21 Q: In other words, would it effect how you
22 would evaluate the information you had in front of you?

23 A: I would think so yes

24 Q: I mean it would certainly throw up a red
25 flag that ut-oh what is this about because you know not

1 that there is any reason to expect at that time or now
2 would do anything improper. That's a pretty high level
3 thing. That's a pretty potent kind of an allegation I would
4 suspect.

5 A: Yes. If I had saw something like that my
6 first inclination would be to check with the FBI. Because
7 my experience with the FBI would be why would they
8 turn something like that over. If they got a high ranking
9 official that they could be bringing charges against
10 they're certainly not going to give it to the State Police or
11 local law enforcement to pursue. The FBI's gonna take it
12 cause they can get a lot of media coverage out of it.

13 Q: Rogue leftovers of J. Edgar Hoover I
14 guess. Now let me ask you this. Do you have a
15 recollection about any language about higher ups in the
16 State Police being mentioned? Now not by name now,
17 but that there could possibly could have been, you know
18 that there were implications or allegations that maybe
19 higher ups in the State Police were involved?

20 A: My recollection is I think it was
21 mentioned "Lieutenant Colonel".

22 Q: Okay anything else?

23 A: I think that's it. I think it was
24 mentioned one time or something.

25 Q: And your best recollection is that... What

1 degree of certainty would you attach to that that it said
2 "Lieutenant Colonel" as opposed to the question I asked
3 you and the phrase "higher ups"?

4 A: Higher ups in the State Police?

5 Q: Yes

6 A: I don't remember anything saying "higher
7 ups". I do remember Lieutenant Colonel is what's
8 sticking out in my mind sir.

9 Q: Now what's a target, if you understand?
10 You've worked with the FBI, what do they mean when
11 they say "target"?

12 A: The focus of an investigation

13 Q: Based on your knowledge and experience
14 it could mean a wide variety of things, but is it fair to say
15 that it means that at least there's some interest and there
16 may be some reason to investigate someone. If someone
17 where a target of an investigation it doesn't mean that
18 they did anything wrong, but it means, doesn't it, that
19 there is a valid investigatory reason to look at them?

20 A: You asking me about the FBI?

21 Q: Yes the FBI

22 A: I would assume there would be. My
23 experience with them is that they never lay all their cards
24 on the table. I mean we work with them. I never sit
25 down and say this is why we're doing this. Whatever.

1 Q: You don't want my response to that.
2 Okay now, what's a target of an investigation? What
3 does that mean based on you experience as a trained
4 police officer and an experienced investigator? What is a
5 target of an investigation?

6 A: Like I said earlier, a focus. Someone that
7 you're looking at for well like just use the Stanton thing.
8 Stanton was supposedly involved in something, and he
9 was targeted by the FBI.

10 Q: if you indicated to a fellow investigator
11 that someone or some entity was the target of
12 investigation, would you go and inform them that they
13 were the target of an investigation?

14 A: No I wouldn't

15 Q: Why not?

16 A: Well you might be compromising the
17 integrity of the investigation.

18 Q: Could you possible being exposing
19 yourself to criminal liability yourself depending on what
20 you did?

21 A: Depending on what you did and what's
22 being investigated

23 Q: Okay. Now then this FBI work product
24 came up to you. It was brought up to you by Dana
25 Seifner. You had it transcribed. You had everything

1 done to it. At some time, I think you indicated that Mr.
2 Williams and/or Mr. Wertz and they looked at that.

3 A: Yes

4 Q: Can you tell us sir, would that had been
5 before June 1999?

6 A: I think the transcripts were done like
7 mid-June so they would have been available at that time.
8 So it's possibly that they might have.

9 Q: But you don't know.

10 A: It's going on three years sir, I don't know

11 Q: Yeah

12 A: if they looked at it before hand or if it was
13 the end of the month or middle of the month. I'm not
14 sure.

15 Q: Now I want you to listen real close to this
16 question. Is there any form, piece of paper in other
17 words, which would indicate when and who would look at
18 that investigative product or can they just walk in their
19 look at it and leave?

20 A: There's no form, No, no sir. The only
21 thing, I could give you an example. If a Bureau Director
22 wanted to look at a report about something that occurred
23 a couple years ago involving the operation of their bureau
24 or whatever they could come over and look at it and the
25 confounds of BPR, but we don't have them like sign in or

1 sign out. Or you might have an occasion where
2 somebody might jot down on the file that somebody had
3 an interest in it, but there's no formal process of doing
4 that.

5 Q: Well if Mr. Williams or Mr. Wertz or
6 anyone else came in there to look at that FBI work
7 product are they allowed to remove it? Can they take it
8 somewhere to look at it? Are they monitored? You know,
9 is there any kind of internal control or check keep on?

10 A: Well, yeah we kinda keep that
11 information. Like for instance if your gonna look at the
12 file you're gonna look at it in BPR. Like to give you an
13 example of something and maybe this will help clarify it.
14 You might have, say for instance I left the State Police
15 and I wanted to apply for a job with the FBI. They would
16 have me sign a release to obtain information about my
17 background, to include any disciplinary actions or
18 internal things that I might have been involved in. So
19 then the FBI

20 Q: I'm sorry

21 A: That's okay, would do their background
22 investigation and would want to access the file and look
23 at my files. Well I've given them permission to do that
24 and it protects the department. The FBI is not allowed to
25 make copies. Their not allowed to take any reports with

1 them. What they do they can come in and look at the
2 information and then they don't take nothing with them.

3 Q: Well how do you know they don't take
4 something with them?

5 A: Well we have, we put them in an office
6 there. They sit in an office right outside of our office. We
7 can see them. They don't make copies of anything.

8 Q: Well who watched Williams and Wertz.
9 I'm not suggesting they would do anything improper.
10 Don't read that into the question, but who watched them
11 when they came in and went through those files?

12 A: I didn't

13 Q: Do you know anyone who did?

14 A: No

15 Q: Well they're Majors in the Pennsylvania
16 State Police and you're not gonna challenge their
17 integrity, right?

18 A: I had no reason

19 Q: I'm not suggesting that you did. Now
20 aside from Mr. Williams and aside from Mr. Wertz do you
21 know anyone else that came in and went through those
22 files? If you do please tell me who.

23 A: I don't know of anybody else sir.

24 Q: Well would you know if they did, if
25 someone else did and if so?

1 A: Not with...Well I know that when those
2 transcriptions were done Sergeant Siefner had a set of
3 them for the internal. I mean she had them for her
4 internal investigation.

5 Q: Why not have Sergeant Seifner check into
6 if there were questions. Cause you see we have this big
7 question out there, what's the reason for this. Now if
8 there were questions, Lord knows what they were, but if
9 there were questions about Mr. Ober and the FBI
10 investigation why not have the BPR assigned person do
11 it?

12 A: I would think that would be an
13 uncomfortable position to put the Internal Affairs
14 investigator in, in light of the fact that Captain Ober he
15 was detached but he was still the Captain for IAD. It
16 would have been more appropriate to someone outside of
17 Internal Affairs investigate that. That would be like my
18 Lieutenant investigating me. We work together. They
19 know me, and all of the sudden their gonna be like. It
20 makes for an uncomfortable situation.

21 Q: Okay

22 A: So what we have to ask them to do is go
23 outside of that.

24 Q: Okay. Now do you know if the FBI's role
25 in investigating Stanton was ever looked at?

1 A: The BCI do all that. I don't know if that
2 was a part of their criminal investigation or not.

3 Q: Well do you know of any questions ever
4 raised about a lack of probable cause on the part of the
5 FBI to do an investigation?

6 A: No sir

7 Q: It's fair to say is it not, although there
8 were legal objections that sustained a dismissal of the
9 charges against Mr. Stanton that factually at least given
10 what was know to you he was certainly involved in
11 talking about trading money for influence. Is that fair to
12 say?

13 A: That's fair to say.

14 Q: Do you know what happened to Mr.
15 Stanton?

16 A: Mr. Stanton, after the criminal charges?

17 Q: After the criminal charges were dropped
18 and the after the State Police did it's internal.

19 A: Okay the last knowledge I have of him
20 we're still in the process. There's still administrative
21 action pending. I think in the form of arbitration and I
22 believe, I'm not 100% sure on this, but I believe he's
23 suspended without pay.

24 Q: Okay

25 A: So he's not working

1 Q: Okay. Now are you familiar with the...
2 Strike that. Chain of command in the Pennsylvania State
3 Police. Did you ever contribute of have a discussion with
4 anyone about submission of a change in the PSP
5 regulations regarding chain of command?

6 A: No sir

7 Q: Let me get back just a little bit Rick if I
8 can to the conversation. You had a conversation, first of
9 all you indicated that arose between you and Captain
10 Ober where he said I didn't do anything wrong. I had
11 asked you some question about that originated, how the
12 subject came up. Is it fair to say you don't remember
13 how it came up?

14 A: I don't remember exactly how we got on
15 the subject, but it came up.

16 Q: Alright

17 A: Briefly

18 Q: But you don't remember how?

19 A: No I can remember

20 Q: Alright. Now during that conversation
21 did you ever indicated that you had related to Major
22 Williams and/or Major Wertz that you know you guys
23 aren't doing this right or you can't do that? Something to
24 that effect. Just something to that effect.

25 A: No

1 Q: Well do you remember when I asked you
2 the few questions about the supervisory thing that some
3 how Captain Ober had put this supervisory thing in
4 place?

5 A: Right

6 Q: Now did you have a discussion with Mr.
7 Williams and Mr. Wertz about this supervisory
8 investigation?

9 A: I recall speaking to Major Wertz, I believe,
10 about the supervisory inquiry process.

11 Q: Well was he asking you questions about
12 it?

13 A: Yeah, he just said... Maybe I did get a
14 chance to clarify before. Remember I was tell you that
15 before we started this supervisory inquiry process we had
16 this other database and these other numbers. I think
17 that was the process the Major Wertz and Major Williams
18 was familiar with as far as dealing with supervisory
19 issues. So I was explaining to him. I think one of the
20 questions he asked me was about administrative
21 warnings. The administrative warnings Captain Ober
22 developed this, and to my knowledge this was something
23 he agreed with with the Union. That in new supervisory
24 inquiries that these notices or warnings would be
25 provided to effected personal. I explained that to him.

1 Q: So when do you not use an
2 administrative warning process?

3 A: If you're just like, say for instance you're
4 out doing an investigation say a shooting incident and
5 there are troopers there that wasn't actually the shooter.
6 Well you wouldn't give them an administrative warning.
7 Just the person that was involved in the shooting. Cause
8 basically all you're letting them know is that the
9 information that you're getting from them can't be use
10 against them in their criminal proceeding. It's strictly an
11 administrative matter of the State Police.

12 Q: Yeah, but you told me that there's an
13 issue here of whether or not the Commander intends to
14 look at discipline.

15 A: And maybe I can clarify this for you

16 Q: Sure

17 A: When a supervisory, the way it's been
18 done since I've been cause I was at them after him, was if
19 their was a complaint that came in and it said the
20 Trooper was belligerent on the traffic stop. Under normal
21 circumstances the Commanding Officer, put of my job is
22 to communicate with Commanders, and I would say hey
23 let's do it as a supervisory inquiry. I'll call the guy and
24 let him know. I'll tell him to be more careful when he's
25 talking to citizens. But the Commander may say you

1 know this is the fourth type complaint. So maybe he is
2 being a little over baring maybe we need to make a full
3 investigation out of it.

4 Q: Well a full investigation though Rick is
5 not a supervisory inquiry. I have loads of testimony on
6 that. Right?

7 A: Right

8 Q: But how was Ober turned into a full
9 investigation?

10 A: Well, let me finish my answer there.

11 Q: I'm sorry

12 A: What the Commander is doing is he or
13 she has made a determination that he is going to
14 consider formal discipline in the matter with the
15 repetitive conduct. So now instead of it being the normal
16 we'll handle it at the Troop level now it's assigned to an
17 IAD investigation. A full investigation cause that's what
18 the disciplinary officer has to act on when it comes in.

19 Q: Yeah, but you know that in ever single on
20 of the examples you're given me, every single one of
21 them, you've mentioned that the individual allegedly did
22 something.

23 A: No I didn't

24 Q: No?

25 A: No, no. There are investigations done

1 were there is no misconduct alleged by directive, and
2 there we have a category for non-complaint
3 investigations. Non-complaint investigation are, I'll give
4 you an example of one that I was involved in. When I
5 was a criminal investigator I had a rape suspect. I had a
6 warrant for, and he was suicidal and he fired a shoot in
7 the direction of me and some other police officers. I
8 never unholstered my gun. Then later on he ended up
9 drawing done on us. Well the mere fact that I was
10 present when that shoot was fired required an internal
11 investigation. No one alleged I did anything, but the
12 Troop commander at that time and determined that my
13 actions were justified. But certainly one of the things
14 investigations are designed to do are point out safety
15 issues.

16 Q: Just find out the facts.

17 A: Right and there might be a training issue
18 that results from that, a safety issue. Not only that a
19 well being issue. Maybe one of us might have been effect
20 physiologically about being close to gunfire. So there are
21 investigation, I'll give you an example of another one,
22 prisoner escapes. We got a prisoner in custody and some
23 how the equipment malfunctions, the handcuffs brake,
24 the guy slugs you in the head, and escapes. Well the
25 police officer is basically a victim of an assault here, but

1 we do an internal investigation.

2 Q: Same thing with the incident. Am I
3 correct?

4 A: Right

5 Q: Investigating a fact situation or a
6 incident. Did somebody explain at some time what the
7 incident was about the FBI coming to Ober that Ober
8 should be investigated for?

9 A: Not to me

10 Q: Did you ever hear of any reason?

11 A: No sir

12 Q: And the fact is as you sit here today you
13 don't know of any reason. Do you Rick?

14 A: I don't know what the powers above me,
15 whatever reasons they had. I don't know that. I just
16 know I was told that the Commissioner wanted an
17 investigation into the facts of what occurred.

18 Q: Well okay, into the facts of what
19 occurred.

20 A: Or the circumstance of what occurred.

21 Q: In other words the circumstances of what
22 occurred in the communications between Mr. Ober and
23 the FBI.

24 A: I mean that's an assumption

25 Q: Well

1 A: I don't know this sir

2 Q: I don't do fishing exhibitions. I gotta
3 have reasons to file complaints, and I'm asking if you
4 know if this was an incident. If this was an investigation
5 into an incident was it into communication between
6 Captain Ober and the FBI? Now, you may not know.
7 Was that the incident or the facts that were being
8 investigated?

9 A: Like I said I never discussed it with Major
10 Wertz and Williams. I don't know what instructions they
11 may have had sir. They didn't share that with me.

12 Q: Did you ever any discussions about this
13 incident or this investigation or whatever it was with
14 Colonel Coury?

15 A: No sir

16 Q: How about with, is it Colonel Westcott?

17 A: Nah, I would never discuss anything. He
18 was Deputy of Operations. No discussions with him no.

19 Q: Well do you know who chose, did Mr.
20 Williams or Mr. Wertz indicate who chose them to do the
21 investigation? Or the did they say we're here at the
22 direction of the Commissioner or something like that?

23 A: I think I was informed that they were
24 investigating. I think Major Conley informed me that
25 they would be conducting the inquiry.

1 Q: For the Commissioner

2 A: Right

3 Q: Okay. That's interesting

4 A: They're gonna be assigned to gather the
5 facts.

6 Q: So he didn't say for the Commissioner?

7 A: I don't him saying it. I just recall I know
8 Major Conley told me that the Commissioner wanted an
9 investigation. At some point and time, I don't know if it
10 was then or days later whatever, but at some point he
11 mentioned to me that Major Wertz and Major Williams
12 would be doing it. I don't know all that other verbiage.

13 Q: I understand. In other words he didn't
14 use the words "for the Commissioner".

15 A: Right

16 Q: That you can recollect.

17 A: Right

18 Q: Fair enough. Do you recollect if....Strike
19 that. Did Mr. Conley indicate the he had spoken with
20 Mr. Evanko?

21 A: I don't recall him telling me that.

22 Q: Okay do you have a recollection of him
23 ever indicating that he was relaying this information to
24 you in effect from the Commissioner himself or somebody
25 close to the Commissioner?

1 A: I don't know he got informed of what was
2 gonna be done. Cause the Major in BPR comes under
3 the Deputy of IAD. So I don't know who he discussed it
4 with sir. I know he told me the Commissioner wanted an
5 investigation.

6 Q: Okay. Why did you go talk to Mr.
7 Merryman?

8 A: Why did who?

9 Q: You

10 OPPOSING COUNSEL: Uh

11 MR BAILEY: All no that's not privileged. No,
12 no no come one. Mr. Merryman is an individual that you
13 went and investigated and talked to. There's nothing
14 privileged about that conversation. It's not an attorney,
15 you don't represent him.

16 OPPOSING COUNSEL: The reason that he
17 spoke to Mr. Merryman was again part of the
18 investigation that was directed by the attorneys.

19 MR BAILEY: I strongly object. Obviously I
20 don't want to get into a contentious thing about this you.
21 I'm asking you to please consider, if your gonna tell this
22 man that I can't ask him about conversations that he
23 had or for that matter, under proper circumstances even
24 ask you if the circumstances were relevant. But your
25 gonna instruct him that he doesn't not have to answer

1 questions about conversations he had with Mr.
2 Merryman?

3 OPPOSING COUNSEL: If it was part of the
4 investigation that we requested him to do, yes that's what
5 I'm directing.

6 MR BAILEY: Alright well, I very strongly
7 object. Let me ask you some of the things you did as
8 opposed to what you discussed did you deliver a affidavit
9 form to Mr. Merryman?

10 OPPOSING COUNSEL: He doesn't have to
11 answer that.

12 MR BAILEY: That's what he did. I'm not
13 asking what he said.

14 OPPOSING COUNSEL: I think investigation
15 details would cover action as well as word.

16 MR BAILEY: I think that you people are trying
17 to hide and obviously escape this lawsuit. I think what
18 you're doing is highly improper and I don't think you can
19 run around and protect yourselves and protect your
20 clients by taking some investigator and calling that
21 attorney product or work product or whatever you call it.
22 Cause I don't think it is, and then when that person goes
23 and talks to somebody allegedly I can't question your
24 investigator about it. I think that's

25 OPPOSING COUNSEL: Alright Counsel with

1 all due courtesy, attorney work product the was certainly
2 not created or born with this particular litigation, but is a
3 process and procedure of long standing in the
4 department. Secondly, you recall of course that Major
5 Merryman and was deposed with regard to his choice to
6 testify concerning what if anything he said to or was
7 asked by Captain Brown. So therefor you have not been
8 excluded sir.

9 MR BAILEY: That's what takes this privilege
10 away. Even if it existed.

11 OPPOSING COUNSEL: That's takes it away as
12 to the Attorney/ Client Privilege with regard to Major
13 Merryman. This is a total different doctrine of Attorney
14 Work Product. So our objection remains, and it remains
15 as to acts as well as conversation. Just to answer your

16 MR BAILEY: Well when you went and talked...
17 Okay well I disagree with you. When you went and
18 talked to Mr. Merryman where any of the attorneys
19 present?

20 OPPOSING COUNSEL: Again the same
21 objection.

22 MR BAILEY: The question is whether or not
23 the attorneys were present. I think you have to answer
24 that. Just tell me if they were present.

25 OPPOSING COUNSEL: He doesn't have to

1 answer any questions regarding anything he did at our
2 direction. I already told you that that was at our
3 direction. He doesn't have to answer questions about
4 that.

5 MR BAILEY: Are you denying that you went
6 and questioned Mr. Merryman?

7 OPPOSING COUNSEL: He's not answering the
8 question.

9 MR BAILEY: Are you denying that you had
10 any conversations with Mr. Merryman?

11 OPPOSING COUNSEL: Same objection

12 MR BAILEY: And are you denying that during
13 the conversation you had with Mr. Merryman, are you
14 indicating that the attorney where or where not present?

15 OPPOSING COUNSEL: Same objection

16 MR BAILEY: Now I want to hear you tell me
17 that you're not answering those cause you've been
18 instructed by counsel. She's not testifying here. She's
19 not under oath. Is it fair to say, and you have to answer
20 this and if you don't I'm gonna call the judge. Is it fair to
21 say that the group of question that I just asked you a few
22 minutes ago, and I need a verbal response, you have not
23 answered these questions on advice of these attorney
24 here today. Is that correct?

25 MR BROWN: That is correct sir.

1 Q: Okay. I'm gonna move on to some other
2 areas.

3 TONY MARCECA: Mr. Bailey before we move
4 on can we take this minute and change both tapes.

5 MR BAILEY: Okay. Just take five minutes

6 TONY MARCECA: It's 11:26 and we're going to
7 go off camera to change the tapes.

8 TONY MARCECA: It's 11:26 on March 5,
9 2002. We put a new tape in and we are continuing the
10 deposition of Captain Brown.

11 MR BAILEY: Rick I'm gonna a change.
12 Completely change direction here one more time. I'm
13 gonna go in the area of what I refer to, and I know you'll
14 know what I'm talking about, the museum investigation.
15 Okay?

16 A: Oh, okay

17 Q: Artifacts or whatever

18 A: Okay

19 Q: Just maybe. Cause your counsel had
20 asked me how much more time. I think we can finish up
21 in less then thirty minutes here. What do you know
22 about that? My understanding is a background, I'll give
23 you an offer here. That there was some type of
24 investigation into Captain Ober about either PSP
25 Museum of potential museum items etc. What can you

1 tell me about that?

2 A: What I recall about the was that there
3 was a representation that some how that Captain Ober
4 has used his position with the department to secure
5 artifacts, State Police artifact, for his own private
6 collection. That the people he was contacting were lead
7 to believe were going to the museum Commissioner not
8 to him personally.

9 Q: Okay

10 A: Something along that line

11 Q: Yeah, and before we go in to, I have a lot
12 of question about this area by the way. Although I think
13 they're rather perfunctory. Is it fair to say that the
14 investigation yielded, in fact Captain Ober had not done
15 anything wrong and it was unfounded?

16 A: That's correct to my knowledge.

17 Q: Okay let me go back. Did you do that
18 investigation?

19 A: Me personally?

20 Q: Yeah

21 A: No

22 Q: Who did?

23 A: Corporal Robert Mrgich from the Internal
24 Affairs Division.

25 Q: And that's M-R-

1 A: M-R-G-I-C-H

2 Q: Mrgich, I think it Ukrainian. I had a
3 friend named Grgich one time, a fine family. Okay, I'm
4 gonna ask you, if my research serves me correctly
5 Corporal Mrgich was an IAD guy.

6 A: Correct

7 Q: Where was Captain Ober at the time this
8 investigation was done?

9 A: He would have been at the IIMS project.

10 Q: He in other words was detached.

11 A: Correct

12 Q: You know Judge Rambo, a very highly
13 respected federal judge with a great deal of experience, I
14 believed in certain cases indicated that detachment is not
15 a permanent kind of thing you're still part of an
16 organization. Am I correct? In other words if you're
17 detached to some duty you are still assigned to a certain
18 place at least for administrative purposed, although you
19 may not be there physically work. That's really were
20 you're organization home is, i.e. sent out to some other
21 sort of duty. It might not be even be related to what you
22 do, but he's attached from. In other words, he's actually
23 IAD, but he's detached to IIMS. Is that correct

24 A: Correct

25 Q: Okay

1 A: That's sounds right.

2 Q: Alright. Why was Corporal Mrgich who
3 was with IAD investigating Captain Ober who was with
4 IAD.

5 A: The only thing I can... Each situation is a
6 little different. This wasn't something, this was done as a
7 supervisory inquiry. There wasn't allegations that
8 Captain Ober committed any crimes. It was a low-level
9 kind of thing. Were as the other situation, who knows
10 what could have came out of that.

11 Q: Yeah

12 A: it could have been a bad, I mean I don't.
13 The supervisory into the museum thing was low grade.

14 Q: Compared to the FBI thing?

15 A: Right

16 Q: What could Ober have done? Was he
17 disloyal to their Commissioner?

18 A: I don't know what he did.

19 Q: Is there a crime called disloyalty in the
20 Pennsylvania State Police?

21 A: Not to my knowledge. I think there is
22 something about disloyalty to the department, but I don't
23 know where that is exactly.

24 Q: No pun intended and I mean that. It
25 almost sounds distopalistic doesn't it? I mean disloyalty

1 to the leader or something.

2 A: Like I said, I don't recall anything
3 anywhere saying loyalty to the Commissioner. I think it's
4 loyalty to agency, organization, department.

5 Q: Okay. What facts come to your mind
6 when you say to me as response to a question, the
7 museum thing is a minor little thing compared to that
8 other thing, the other investigation into Ober? What was
9 going through your mind?

10 A: About the museum?

11 Q: Yeah. What comparison were you doing?

12 A: Really I wasn't doing any comparison that
13 I can recall.

14 Q: No you probably weren't. Now to you the
15 gravity of those two things was significantly different
16 wasn't it? That's what you told us.

17 A: Well the thing is the Commissioner
18 requested an inquiry. However two Majors got assigned.
19 The deal with the museum, if my memory serves me
20 right, I think Major Conley told me it would be best done
21 as a supervisory inquiry.

22 Q: Well

23 A: I mean it was something, I mean me
24 personally, I mean I know Captain Ober collected thing.
25 You know maybe it was a misunderstanding.

1 Q: Okay

2 A: So I wasn't looking at it like, Oh my God
3 Captain Ober's getting artifacts.

4 Q: Well if someone misrepresented their
5 roles of State Police Officer that could be a crime though.
6 Am I correct?

7 A: It depends on the situation of how they
8 represent themselves. I mean he's a police officer. So
9 he's not misrepresenting himself if he say I'm a Captain
10 in the State Police. He is representing himself.

11 Q: Well it would be misrepresentation if you
12 say this is for some particular organization and it's for
13 him personally. Don't you have an individual being
14 investigated for that right now in the southwestern part
15 of the state?

16 A: For doing what?

17 Q: For allegedly misrepresenting their role in
18 purcuring artifacts or something or am I mistaken?

19 A: There is a member that was arrested for,
20 it wasn't to my knowledge securing, like what Captain
21 Ober was doing. What he was actually doing was
22 removing State Police property,

23 Q: Wow

24 A: and selling it for a profit.

25 Q: Okay

1 A: It's a little different thing.

2 Q: Admittedly it that would be different. I'll
3 withdraw the question. It wouldn't have any basis, I
4 agree. Now do you know had initiated the investigation
5 on the museum thing?

6 A: What I recall of that is, he's a retired I
7 don't if he was a Colonel or a Lieutenant Colonel, but he's
8 a retired guy, Trooper named Phil Conty. He sent
9 correspondence to Lieutenant Colonel Coury. Then
10 Lieutenant Colonel Coury, I think at that time, referred it
11 over to BPR and then it came to me from Major Conley. I
12 think that's how it went.

13 Q: Do you know whether anyone just called
14 Captain Ober up and asked him what was going on?

15 A: Oh, no I don't that.

16 Q: You don't know how it was conducted or?

17 A: How the inquiry was conducted?

18 Q: Yeah

19 A: I know that Corporal Mrgich interviewed
20 Phil Conty and interviewed a couple of the women and
21 I'm pretty sure he interviewed Captain Ober.

22 Q: Okay. Was there a, I'm having a hard
23 time understanding why in the museum situation it was
24 a... Well I guess actually your response to questions. I'm
25 think of, let me stop doing that. I'm messing up this

1 record. The museum investigation you had indicated
2 that there was some decision made at some point that it
3 was a supervisory inquiry kind of thing, whatever that is,
4 right?

5 A: Right

6 Q: Alright hold on just one second.

7 MR BAILEY: Okay, it's a supervisory inquiry.
8 What' an administrative inquiry?

9 MR BROWN: Administrative inquiry is not
10 defined in our AR-425. We don't have definition that
11 says administrative inquiry. What it says is
12 administrative investigation are inquiries.

13 Q: Right

14 A: Administrative inquiries into allegations
15 of misconduct or into investigations by directive, such as
16 the Commissioner's request, where no misconduct is
17 alleged.

18 Q: I wonder what's so special about, I mean
19 who's the... I don't mean any disrespect.

20 A: I understand sir. I don't take any.

21 Q: Yeah. What's so special about the
22 Commissioner? You know, if I'm in the Army and the
23 Chairmen of the Joint Chief of Staffs comes down and he
24 says he want some private investigated on a fire base
25 somewhere, he has no more authority none, zero, and

1 believe me he doesn't under the Army's system, okay.
2 Has no more authority, no more weight, as a matter or
3 fact he has less authority and weight then that private's
4 Commander to initiate and investigation or even to
5 punish. Can you tell me what, in the FBI investigation,
6 what it had to do with Colonel Coury? I mean, I'm sorry,
7 with Colonel Evanko. Do you know? I mean, that's an
8 honest question. As you sit here today do you know
9 what it had to do with him?

10 A: No

11 Q: Okay. On the museum investigation

12 A: Did I answer your question on that sir?

13 Q: Yes sir, you did. No you did. You did.
14 You answered it perfectly. That's what I expected you to
15 tell me. From what I know, I don't know what it had to
16 do with him. I don't know what he was doing ask for this
17 investigation. I don't know what lead to it. I don't want
18 he asked. Do you know whether and questioned, you
19 know just simply got a hold of Captain Ober and said
20 Captain come on in here, tell me about this. What went
21 on?

22 A: No

23 Q: Do you know when that ever occurred?

24 A: No

25 Q: Okay. Did anyone ever indicate to you

1 the Mr. Conty was trying to encourage or looking for
2 complaints against Captain Ober? Did anybody ever
3 indicate that to you?

4 A: No

5 Q: What about Colonel Coury? Did Colonel
6 Coury become involved in the museum investigation at
7 all?

8 A: The only recollection I have of him
9 besides, I think Phil Conty sending the correspondence to
10 him. I think he would have been the adjudicator. I think
11 he was the adjudicator of that.

12 Q: Is that proper?

13 A: Well I mean, normally if, I'll give you an
14 example. If I'm a Troop Commander and someone in my
15 command had an investigation on them, normally the
16 Troop Commander would be the adjudicator. Unless
17 they're somewhat involved in the investigation or
18 complaint or some sort. I've seen situations where
19 depending on what was under investigation, I think the
20 Deputy Commissioner of Administration can designate
21 someone to adjudicate a case. So I mean it's not hard
22 and fifth and in every situation it's gotta be this person or
23 that person. There occasions where Deputy Admin. Can
24 say that this person is gonna adjudicate this particular
25 case.

1 Q: Well was Mr. Mrgich assigned by Colonel
2 Coury?

3 A: No. I probably gave that to him.

4 Q: You had a Corporal investigating a
5 Captain? Is that normal?

6 A: Well you know in IAD they can
7 investigate.

8 Q: I understand they can, but how normal
9 or?

10 A: It happens.

11 Q: It happens?

12 A: Yes it happens.

13 Q: Okay. The supervisory inquiry is a
14 creator of regulation, defined and described by
15 regulation, right?

16 A: No

17 Q: It's not.

18 A: No

19 Q: Supervisory inquiry isn't?

20 A: No sir. This was something that what I
21 recall, I'm pretty sure this was Captain Ober's brainchild.
22 It was something that was gonna be part of a special
23 order. Cause when he went to IIMS I has to pick up on it
24 to try to finish it. So it never, I mean it never got signed
25 and put in to practice, but it was being field tested during

1 that time.

2 Q: Well

3 A: I mean there's been a couple hundred of
4 them.

5 Q: Supervisory inquiries?

6 A: Well back when that was going on, I
7 think back around that time we had like a hundred and
8 some of them.

9 Q: Do they have number assigned?

10 A: Yes sir

11 Q: Because when you told us this
12 investigation that was done at the Commissioner's
13 request until this I guess some how by accident or in
14 passing the issue of ut-oh there's no number here, until
15 that come up it didn't even have a number from what you
16 told me.

17 A: Right and as far as ut-oh I don't think

18 Q: Okay. Can I take my ut-oh back?

19 A: Supervisory inquiries?

20 A: Well back when that was going on, I
21 think back around that time we had like a hundred and
22 some of them.

23 Q: Do they have number assigned?

24 A: Yes sir

25 Q: Because when you told us this

1 investigation that was done at the Commissioner's
2 request until this I guess some how by accident or in
3 passing the issue of Ut-oh there's no number here, until
4 that come up it didn't even have a number from what you
5 told me.

6 A: Right and as far as ut-oh I don't think

7 Q: Okay. Can I take my ut-oh back?

8 A: Yeah Major Wertz kind a said

9 Q: Did he us the word "whoa"?

10 A: Well no

11 Q: He didn't?

12 A: Well I don't remember using a whoa, but I
13 think what it was, the context of the conversation was I
14 don't think we took a number for this. Then I said
15 something the Major Conley about what they were doing,
16 and he says it an investigation at the request of the
17 Commissioner. I wrote it up, put the number on it and
18 gave it to them. So that the Tracking would be there.

19 Q: Well

20 A: Whether I was right or wrong, that's for
21 somebody else to judge.

22 Q: No, no

23 A: I thought I was doing the right thing.

24 Q: I certainly not in question whether you
25 were right of wrong. At least somebody put it in the

1 system. But you seem to be telling me now, if I
2 understand you, and not that it's different from anything
3 that you said. I'm not impeaching you here. My
4 understanding is then you did this, was it at the request
5 of Mr. Conley?

6 A: Which?

7 Q: To fill out that form.

8 A: No he didn't request me. I just did it.

9 Q: Cause it was the right thing to do?

10 A: Right

11 Q: So you weren't asked to do it by Williams.

12 You were not asked to do it by Wertz and you were not
13 asked to do it by Conley. You were not asked to do it by
14 Coury. You were not asked to do it by Westcott. You
15 were not asked to do it by Evanko.

16 A: Sitting here

17 Q: There was no request. It was just you
18 being a responsible person in that position and said I
19 better do this.

20 A: That's basically what happened.

21 Q: Okay. Right now, do you know whether
22 there a complaint verification on the museum thing?

23 A: I don't think there was a complaint
24 verification form, but there was a complaint verified in
25 written by Mr. Conty. Which is our policy to except

1 those.

2 Q: Well did somebody get back to Mr. Conty
3 and ask him why he said this and what it was about?

4 A: I'm pretty sure Corporal Mrgich
5 interviewed him. I think he was interviewed about his
6 complaint letter.

7 Q: Okay. Do you remember, if you recollect
8 what his response was?

9 A: Oh no I don't.

10 Q: But that would be in the file, if we ever
11 get them. I mean that would be in there, right?

12 A: Right

13 Q: Okay. In a supervisory inquiry...Strike
14 that. Full investigation, full you know the big jobby.

15 A: Okay

16 Q: The big one. In a full investigation can
17 the individual say I refuse to respond or answer?

18 A: They can, yes

19 Q: At that point can the investigator say
20 okay and read you your so called administrative
21 warnings or rights whatever. Then if the person still
22 refuses to answer technically it can be insubordination
23 and they can even be dismissed. Am I correct?

24 A: Well

25 Q: Correct me on that. Tell me

1 A: What would have to happen is the
2 investigator would have to report that to somebody like
3 me, and then what may be the next step in the process
4 would be to get in touch with the individual's
5 Commanding Officer and have an order issued. A written
6 order saying you will cooperate with the investigation.
7 Then once that's done and they're served with it and they
8 didn't comply then there could be an investigation for
9 insubordination, well there could be a lawful order. I
10 mean it would be a very simple investigation, here's the
11 lawful order he did comply, and discipline could result of
12 it. Whether or not it would be termination or not the way
13 our system is set up that would go before an arbitrator
14 and the arbitrator would decide whether the person. I
15 mean the department can move to dismiss, but it's up to
16 the arbitrator whether or not the person's actually
17 dismissed.

18 Q: Do you know whether Mr. Wertz and Mr.
19 Williams interviewed Captain Ober at sometime?

20 A: Oh yes

21 Q: Okay. Now did you ever listen to that
22 tape of that interview?

23 A: No

24 Q: Was it taped?

25 A: I believe so. I believe so cause I think he

1 asked to barrow a tape recorder. I think Major Wertz or
2 Williams asked to barrow a tape recorder from either me
3 or one of my guys.

4 Q: Where did they do the interview?

5 A: You know I'm not sure. I'm not sure
6 where they did his interview.

7 Q: Do you know that the... I remember
8 reading State Police regulations abut supervisory
9 inquiries. Did you say that wasn't written into the
10 regulations?

11 A: Let me give a little background.

12 Q: Yeah

13 A: First of all AR-425?

14 Q: Right

15 A: It came out in '93. When I first came to
16 BPR in '94 my Captain, Sam Gore at the time, was like
17 we got to rewrite 425. This thing has be in the revision
18 stage for nine years now, and even with the discipline
19 committee we're try to hammer out these different things.
20 So what happened with the supervisory inquiry when
21 Captain Ober left I pick up on it. I basically had a meet
22 with the Union. It was a monthly meeting, and kind of
23 hammered out, just fine-tuned it a little bit and it was
24 getting ready to go to press.

25 Q: But it had been in the

1 A: It was being worked yes. It was being
2 worked

3 Q: Well but my question sir, not to interrupt
4 you. But my question is was it in writing in some form in
5 426 before you put it in?

6 A: No

7 Q: Okay

8 A: It's still not in writing in 425.

9 Q: Where is it in writing?

10 A: Just the draft that Captain Ober gave me
11 and then what I ended up continuing to put together.
12 But it was never

13 Q: Then other than a full investigation what
14 were the regulations that governed the actions of Mr.
15 Williams and Mr. Wertz in the early summer of 1999?

16 A: Well AR-425 and basically what I
17 informed them about the process that Captain Ober
18 developed. I don't know if Captain Ober had got some
19 authorization from the Major or from the Deputy or
20 whoever, but that was something that was being done
21 and still being done to this day.

22 Q: Are you telling us that Captain Ober
23 developed the process that was used to interrogate him?
24 Is that what you're telling me?

25 A: He developed the supervisory, I think it

1 was his idea.

2 Q: So did he deserve what he got then? Is
3 that what you're telling me?

4 A: Well I'm not telling you at all. I just
5 saying that he developed the process, and that was the
6 process to my knowledge that they choose to follow.

7 Q: Well where was the process written
8 down?

9 A: It was written down in a draft form. We
10 had a draft.

11 Q: Okay

12 A: Of a special order

13 Q: Okay

14 A: But it had, matter of fact it did go to
15 Research and Development. It did go over there.

16 Q: Okay. When?

17 A: I want to say, when did it go over?
18 During this time frame I had a lot going on and I'm trying
19 to remember. Cause it did have a whole lot to do. I met
20 with the PSTA. They hammered it out. I'm think the
21 later part of the year of '99 maybe. It may have went over
22 there, cause Major Merryman, I recall seeing a blank slip
23 with Major Merryman's name on it. I thought, and
24 something in the later part of '99 maybe. But then what
25 happened, what in effect happened, I was at the

1 discipline committee meeting and the Union in the new
2 process we're developing wanted to do away with the
3 supervisory inquiry. Says yeah we never, it's not in the
4 regulations. Just do away with it. We're gonna come up
5 with a new system. So that's the reason it wasn't
6 pursued any further to my knowledge, but the Troop
7 Commanders that I deal with they like it. They like it for
8 dealing with for dealing with minor stuff.

9 Q: Well

10 A: I've been told not to use it. Put it that
11 way.

12 Q: Okay. Who appointed Wertz and
13 Williams?

14 A: Appointed them?

15 Q: Uh-hum

16 A: To the investigation? You mean assigned
17 them?

18 Q: Yeah assigned them

19 A: I don't know who made that decision sir.
20 I wasn't a part of any. Nobody consulted me about
21 whether they should be the ones to do the inquiry or
22 whatever. I was not a part of any of that.

23 Q: Well how many other investigation like
24 that do you know of?

25 A: Do I know as far as?

1 Q: Where somebody appointed investigator
2 to investigate somebody and it's not its not done through
3 IAD?

4 A: Well maybe I can clear this up for you.

5 Q: Sure

6 A: The Director of the Bureau of Professional
7 Responsibility retains supervisory authority for all of
8 investigations assigned to the bureau. My job as the
9 Director is to pick that up in his absence or unless he
10 delegates me to do that, but really it's his responsibility.

11 Q: I'm not talking about responsibility. I'm
12 talking about what's been done. What was done.

13 A: I guess the point I'm trying to make is if
14 the Director of BPR has talked to a Troop Commander,
15 say for instance, about a complaint and he calls me in
16 the office and he says "hey I want this investigation done.
17 I talked to the CO and I want this person to do it." It
18 shall be done.

19 Q: Okay. Are you tell us that Major Conley
20 assigned Wertz?

21 A: That I don't know. I don't know. I don't
22 know how...

23 Q: What situations, here's what my question
24 was. What situations other then Captain Ober and/or
25 IAD assigned investigators? Strike that. Let me rephrase

1 that. What situations do you know of other than Ober
2 where BPR and/or IAD did not assign investigators? I'd
3 like to know. Then I'm gonna ask you question on what
4 authority an Area Commander has, Colonel Coury has to
5 assigning investigators to investigate people. Cause I
6 want to know where it is in your regulations cause I can't
7 find it.

8 A: Let me just say this about AR-425. It's
9 not all inclusive of everything and every circumstance or
10 situation you could come across.

11 Q: Okay, but that's not what I'm asking you.

12 A: Okay

13 Q: I'm not asking you, now wait. Wait Rick.

14 A: Okay

15 Q: I'm just asking you aside from Captain
16 Ober.

17 A: Okay

18 Q: Do you know of, cause see all of us can
19 read 425 and try to figure out what it says. Ultimately a
20 judge is going to decide. We're not gonna decide that the
21 judge is gonna decide what it says. My question is aside
22 from the investigation into Captain Ober What other
23 situations do you know of where investigators where
24 appointed outside of BPR or IAD and an investigation
25 was done somebody? That's all I'm asking.

1 A: Let me and hopefully this clarifies it. Not
2 all complaints

3 Q: Yeah, do you know of any other
4 situations?

5 A: I mean I don't know. I mean the people
6 from the field, I mean Internal Affairs isn't the only entity
7 that does investigations.

8 Q: Into Pennsylvania State Police internal

9 A: Right

10 Q: Who does?

11 A: Well you have field non-commissioned
12 officers in the field and even up to Lieutenants.

13 Depending

14 Q: To appoint investigators? Take people
15 and say this is your duty to go investigate.

16 A: Right. Say for instance if a Troop
17 Commander calls me and says I have a complaint on
18 Rick Brown in my troop. I've assigned, he would tell, I've
19 assigned Sergeant Joe Smith to do the investigation and I
20 will just pen that information right on to the file.

21 Q: Yeah you enter it.

22 A: But that CO decided who was gonna
23 investigate it. They don't ask me if it's okay. They say
24 this is who I want to do it. The only time that I get to
25 pick an investigator in my daily wick is when it's

1 assigned to the Internal Affairs Division where I have
2 control of those investigators. Now when I was a
3 Lieutenant I would designate which one of the
4 investigator under me would do it, but as the Director I
5 give it to their section Commander. They look at
6 caseload or whatever and they determine who gets the
7 work. I leave that up to their judgement.

8 Q: You leave that up to them?

9 A: Yes. I mean if there's something the
10 comes in, I'm not gonna say that's 100% of the time. If
11 something comes in and I think, and I say this is
12 something that I have a guy

13 Q: So a field Commander can take some
14 people assign them to investigate one of his people. They
15 don't even have to call you or tell you. Right?

16 A: Well they can actually do an inquiry
17 before calling us, absolutely.

18 Q: Well, no no no. I'm talking about
19 assigning investigators and have them go out and
20 investigate somebody without letting you know. They
21 don't even have to tell you, right?

22 A: Well I'm trying to think the best way to
23 answer this. If a Commanding Officer gets a complaint
24 and it's vague they may assign someone to go out and
25 track down some additional information.

1 Q: Sure

2 A: And you can call that an investigation or
3 whatever, but it may be just trying to get some additional
4 facts to determine whether it should come to us.

5 Q: If they get some information?

6 A: Right

7 Q: So Colonel Evanko can tell us, he's the
8 guy that started this thing, he got to be able to tell us
9 why and for what reason he did this right?

10 A: You have to ask him that.

11 Q: Yeah, cause he'd be, I guess nobody else
12 knows. He has to be the guy that knows right?

13 A: Yeah, he didn't consult with Rick Brown.

14 Q: Okay. No he didn't consult with you.
15 Which attorney assigned you the so-called Attorney Work
16 Product investigation that's been discussed here? Who
17 was it?

18 OPPOSING COUNSEL: I don't have a problem
19 with it.

20 MR BROWN: It would be Chief Counsel

21 MR BAILEY: Barbara? Okay. Who told you to
22 take the copy of the Stackhouse investigation from
23 Captain Ober? Who told you to do that?

24 A: I don't remember if it was. Would I have
25 talked to Captain Skurkis about that. I don't know if

1 Captain Skurkis was acting or if it was the Major.

2 Q: Well didn't you tell Captain Skurkis or
3 were you ordered by Skurkis to take the copy from Ober.
4 Do you remember?

5 A: I don't recalled per say. See there was
6 things going on with Stackhouse that other people need
7 to see the report. Like the investigator, Sergeant Rain.
8 So for him to just be able to keep it for an indefinite time
9 period would not be, I mean

10 Q: Well somebody told you to go get it or do
11 you have your own?

12 A: Well I think it was Captain Skurkis.

13 Q: Why?

14 A: Cause there was coming up with her.
15 Through the Union they had filled a lawsuit, and there
16 was gonna be depositions and other people had to review
17 to refresh themselves on what they did so they could be
18 prepared for their deposition. That's recalling it the time
19 frame. I remember Sergeant Rain coming to me saying
20 "Hey am I gonna be able to look at the report", and that
21 was the only, I think he had the original which was the
22 only copy of it at that time.

23 Q: Did somebody say that Ober wasn't to
24 testify in that matter or wasn't to be involved in it?

25 A: No

1 Q: But why was it taken back? Do you
2 know what it was for? Why was it taken back? Why was
3 it retrieved from him?

4 A: Well actually he could have looked at it
5 there anytime. We had no problem with him coming over
6 to BPR and looking at that file.

7 Q: Do you know the defendants in this case?

8 A: Do I know them?

9 Q: Sure

10 A: Yes

11 Q: Did you ever have any discussions with
12 them regarding Mr. Ober's transfer to Washington
13 Pennsylvania?

14 A: No

15 Q: Or purported transfer that never. I
16 guess, what's the penalty box? What is that?

17 A: That's just a term I think that's an
18 organizationally thing. You know guy's talk. I think
19 that, I'm just trying to think. If somebody perceives that
20 you did something wrong and you're assigned here or
21 you're doing something different that might be perceived
22 as you're in the penalty box.

23 Q: Does that mean you're held in disfavor,
24 you're ostracized?

25 A: No

1 Q: What does it mean?

2 A: Well to me, what it means to me is really
3 it doesn't have a lot of meaning to me because I treat
4 everybody. Well, like in Captain Ober's case

5 Q: Well no, I'm not indicated it has anything
6 to do with you personally.

7 A: I mean I can't speak for other people.

8 Q: I'm not asking you to speak for other
9 people. I'm asking you, Rick Brown, to give me an honest
10 definition of penalty box means. I mean being in the
11 doghouse. Is it like being in the doghouse?

12 A: I cause you could say that.

13 Q: Well what would you say?

14 A: Could be in the doghouse.

15 Q: Alright. Do you have any recollection of
16 any discussion with any of the defendants regarding Mr.
17 Ober's transfer to LCE?

18 A: No

19 Q: Did you do an Internal Affairs
20 investigation into allegations of misconduct involving
21 Lieutenant Colonel Westcott and Trooper Mark George?

22 A: Yes

23 Q: What was the complaint about?

24 A: It was an anonymous compliant number
25 one, and it worded in such that it was implied that it

1 could be criminal. It had to do with supposedly Colonel
2 Westcott was in the process of getting his pilot's license,
3 and Mark George was a pilot. The allegations were that
4 using state time to fly, and become licensed while he's
5 working kind of thing.

6 Q: Alright

7 A: Something to that effect

8 Q: Okay. Did Westcott and George know
9 each other in fact?

10 A: To my knowledge they knew each other
11 yes.

12 Q: Did you ever have any problem arranging
13 an interview with George?

14 A: With George?

15 Q: Yeah

16 A: No

17 Q: Okay

18 A: He was stationed up in like around
19 Wyoming.

20 Q: Did you ever discover any facts indicating
21 that George had been tipped off by Mr. Westcott?

22 A: Tipped off about?

23 Q: Anything

24 A: About the complaint?

25 Q: Whatever

1 A: No

2 Q: You have recollection of learning or
3 receiving information that a group of cadets was retested
4 at the academy cause a applicant named Colleen Young
5 failed her physically testing portion of the process?

6 A: I don't, like I said hear say kind of thing.
7 I don't know how mentioned it, but I did hear that
8 somebody was retested, but I don't know who it was and
9 why.

10 Q: No, that a whole group was retested to
11 protect the person.

12 A: A whole group?

13 Q: Yeah

14 A: I just hear about some retests but I don't
15 know who they were and why.

16 Q: Do you know who Colleen Young is?

17 A: No

18 Q: Do you think that, do you have an
19 opinion as to whether Darrell Ober is acting properly in
20 bring this complaint? Do you have an opinion about
21 that, a personal opinion as a colleague and as a
22 Pennsylvania State Police Officer?

23 A: You mean bring the lawsuit?

24 Q: Yeah

25 A: I kinda, my opinions will be formed when

1 I know all the facts.

2 Q: Well do you have any opinions? You're
3 aware of the efforts made by the Pennsylvania State
4 Police which failed obviously to transfer Mr. Ober to
5 Washington County, correct? You were.

6 A: Yes

7 Q: You're aware that he was assigned to a
8 Lieutenant position in LCE. You're aware of that aren't
9 you?

10 A: Yes

11 Q: You're aware of some of the grievance
12 issues over like expenses and his telephone, aren't you?

13 A: I heard

14 Q: Some awareness

15 A: Yeah some awareness

16 Q: Right. Is Captain Ober going anywhere in
17 the Pennsylvania State Police?

18 A: Is he doing what?

19 Q: Is he going anywhere? Is he pretty much
20 at his career end do you think?

21 A: I certainly don't think he's at his career
22 end. He's a Captain already. He's got one more jump to
23 make to Major and even with his time on him. He came
24 in a couple classes after me so he's got probably twenty-
25 one years on. Close to twenty-one years or He'll have

1 twenty-one years. Who knows he might be friends with
2 the next Governor and be the Commissioner. So I don't
3 think his career's over.

4 Q: You ever indicate to any body that he was
5 over doing it? You know he's lost control or anything like
6 that. Did you ever say that to anybody?

7 A: Not that I recall, no.

8 Q: I'm gonna read you a letter. It's got a
9 date on it, which is before March of 2001 okay. It says:
10 Captain Ober where do I begin. Through adversity you
11 stood tall for your beliefs. You're a winner. Let know
12 one tell you differently. I'm proud to have served with you.
13 You taught me, lead me, and supported me through
14 some very difficult times and have been a loyal friend.
15 You have protected me and provided me with
16 opportunity. Thanks Captain for your trust, confidence,
17 and faith in me during some difficult times. I will never
18 forget what you have done for me. Hopefully one day we
19 will work together again. I can't begin to tell you what it
20 meant to me to see you and Kim at the ceremony. I'll
21 never forget your support. Thanks again Captain.
22 Thanks Kim, Rick. You write that letter?

23 A: I recall that, yes

24 Q: Why? Why did you write that letter?

25 A: Well through out this time period, when

1 Captain Ober before he went to IIMS he offered me
2 training opportunities. Well he did things a boss would
3 do.

4 Q: Okay. I'm not trying to embarrass you.

5 A: I don't feel embarrassed

6 Q: No, but I just want you to know I'm not.
7 Let me just do this this way. Did Captain Ober ever do
8 anything to harm you?

9 A: No

10 Q: Alright. Is it fair to say that you believe
11 that if you did something wrong and were deserving of
12 discipline that Captain Ober would discipline you?

13 A: Oh, yes. I believe so.

14 Q: And you're probably the kind of person if
15 you look in a mirror, is it fair to say the you believe that if
16 someone who were within your command or you had a
17 duty to supervise if they did something wrong you would
18 treat them fairly?

19 A: Correct

20 Q: And how many years you've been in the
21 Pennsylvania State Police?

22 A: Twenty-one years

23 Q: Based upon knowledge you have was it
24 fair to send Captain Ober to Washington Pennsylvania?
25 Based upon what you know.

1 A: But that's just it. I didn't know much. I
2 don't know what the reason was.

3 Q: Well what do you know today, Rick?

4 A: Well, I don't know all the facts.

5 Q: You don't know all the facts?

6 A: No

7 Q: Well I'll tell you what, I'll wrote you a
8 letter when all the fact are known and I'll ask you the
9 question again. Okay?

10 A: That's fine

11 Q: You and I will have an agreement,
12 alright?

13 A: That's fine

14 Q: Alright. Now what about assigning
15 Captain Ober to LCE? Was that fair, Rick? Do you know
16 enough facts about that to give us an opinion based upon
17 your years with the State Police?

18 A: Nah

19 Q: Was it fair?

20 A: I don't have an opinion on that. Cause I
21 know there was some court action on

22 Q: Alright. That's fine. I understand you've
23 stressed your opinion. Now let me ask you this question
24 sir. Can you tell me how many years in the State Police?
25 I may not have heard you correctly.

1 A: Twenty-one

2 Q: Twenty-one. Twenty-one years in the
3 Pennsylvania State Police. How many times has a
4 Captain been assigned to a Lieutenant's position in the
5 Pennsylvania State Police during your twenty-one years
6 that you can tell me?

7 A: I don't know

8 Q: Have you ever know of that?

9 A: Me personally I haven't, no.

10 Q: You have no knowledge of that ever
11 happening aside from Captain Ober? Now you're not
12 questioning that it happened to Captain Ober?

13 A: No, no, no, no. I'm just say, you said
14 except him.

15 Q: Right

16 A: Nah I

17 Q: Except for him you don't know of that
18 ever happening.

19 A: No

20 Q: Alright I don't have any more of you.
21 Your attorneys may have some questions of you.

22 OPPOSING COUNSEL: I don't have any.

23 MR BAILEY: Rick I'd like to express, he's
24 gonna shut the investigation. The investigation they we
25 go. He gonna shut the camera down and the deposition.

1 I'd like to express my gratitude to you for coming in here
 2 and answering questions the best that you can. I
 3 sincerely appreciate your cooperation. Thank you.

4 MR BROWN: Thank you sir.

5 MR BAILEY: Tony you want to end this?

6 TONY MARCECA: The time is 12:20 and it's
 7 the 5th of March. This now concludes this deposition of
 8 Mr. Brown.

9

10

11

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COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF DAUPHIN :

AFFIDAVIT OF CAPTAIN DAVID F. YOUNG

I, CAPTAIN DAVID F. YOUNG, swear and affirm the following:

1. I am presently the Director of the Special Investigations Division of the Pennsylvania State Police Bureau of Criminal Investigation.

2. On February 12, 2000, Commissioner Paul Evanko promoted me to the rank of Captain and assigned as Special Projects Officer to the Area III Commander, Major Lyle Szupinka.

3. The Special Projects Officer's position to which I was assigned was the same position to which Captain Ober had previously been assigned. However, Captain Ober filed a petition for mandamus, requesting a preliminary and permanent injunction, in the Pennsylvania Commonwealth Court. It is my understanding that Commissioner Evanko voluntarily rescinded Captain Ober's transfer in exchange for Captain Ober's agreement to withdraw his motion for a preliminary injunction.

4. In my assignment as Special Projects Officer to the Area III Commander, I performed the following duties:

a. I wrote the Operations Plan for the National Governors' Association (NGA) 2000 Annual Summer Meeting. I was required to personally author some sections of the plan; I had to review and correct 17 plans submitted by the various coordinators and then combine all of this information into a comprehensive Operations Plan.

b. I coordinated several training exercises, including the development of training exercises for riot control and the management of riot training exercises.

c. I served as liaison officer with the Republican National Convention State Police team to coordinate ideas and training and exchange equipment.

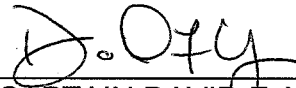
d. To assist in preparation for future large scale events, I wrote an after-action report critiquing the State Police response to the NGA.

e. I also assisted the Area III Commander with some of his duties so that he could devote more time to the NGA. (This included attending meetings on his behalf, coordinating the Area III Training Initiative for Troop ID personnel and their supervisors, and conducting state visits).

5. I consider my assignment as Special Projects Officer to the Area III Commander as one of the highlights of my entire employment with the State Police. The assignment also allowed me to personally contribute to one of the largest security operations ever handled by the Pennsylvania State Police. It gave me the opportunity to meet and develop a close working relationship with many top commanders from western Pennsylvania. I also developed contacts with numerous other state and federal agencies, including the ATF, FBI, and many state police organizations from other states. These contacts have been invaluable to me in my current position. I also earned overtime pay in this position.

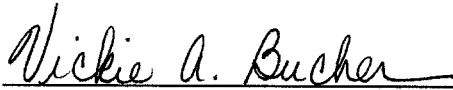
6. My office in Washington, Pennsylvania was 308 miles from my personal residence. I was assigned to this location for approximately six months. Although it was a hardship to be away from my family, I would not hesitate to accept a similar

position in the future because this assignment was so rewarding to me personally and professionally.

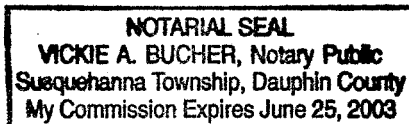


CAPTAIN DAVID F. YOUNG
Director, Special Investigation Division
Bureau of Criminal Investigation
Pennsylvania State Police

Sworn to and subscribed
before me this 17th day
of May, 2002



Notary Public



IN THE UNITED STATES DISTRICT COURT FOR
MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER

Plaintiff

Versus

PAUL EVANKO, MARK
CAMBELL, THOMAS COURY,
JOSEPH WESTCOTT,
HAWTHORNE CONLEY
JOANNA REYNOLDS and
SYNDI GUIDO, Et al.

Defendants

: 1: CV- 00-0084
:
:
:(JURY TRIAL DEMANDED)
:
:
:
:
:
:
:
:
:
:

COPY

DATE: March 5, 2001

PROCEEDINGS: Video Deposition of
John R. Brown

APPEARANCES:

For the Plaintiff: Donald Bailey, Esquire
4311 N. 6th Street
Harrisburg, PA 17110

For the Defendants: Joanna Reynolds Esq.
Barbara Christie Esq.
1800 Elmerton Avenue
Harrisburg Pa. 17110

1 TONY MARCECA: Good morning be advised the video
2 and audio is in operation. My name is Tony Marceca.
3 My address is 2219 Dixie Drive York Pennsylvania,
4 17402. I have been contracted by PR Video to be the
5 video operator for this deposition. The case is in the
6 United States District Court of the Middle District of
7 Pennsylvania. Could I have a caption sir?

8 MR BAILEY: I'm sorry did I take from you?

9 TONY MARCECA: And the caption is Darrell G.
10 Ober plaintiff versus Paul Evanko, Mark Campbell,
11 Thomas Coury et al. It's in a civil action in
12 1: CV-01-0084.

13 MR BAILEY: You gonna swear him in?

14 TONY MARCECA: Today's date is March the
15 5th, and it is now 9:14 a.m. The deposition is taking
16 place in the law office of Don Bailey at 4311 North 6th
17 Street Harrisburg Pennsylvania, 17110. The video
18 deposition is being taken on behalf of the plaintiff, Mr.
19 Ober. The time now is 9:14. Would you please state
20 your name for the record and raise you right hand?

21 MR BROWN: John R. Brown

22 TONY MARCECA: Do you swear to tell the
23 truth, the whole truth so help you God?

24 MR BROWN: Yes I do.

25 TONY MARCECA: Thank you. Mr. Bailey could

1 we have a sound check please?

2 MR BAILEY: Yeah, sorry. Yeah, my name is
3 Don Bailey. I'm attorney for the plaintiff, Darrell G. Ober
4 in this case. And if we possibly could have the attorneys
5 present identify themselves and give their official address
6 and phone number for the record. Makes this easier for
7 the transcriber.

8 JOANNA REYNOLDS: My name is Joanna
9 Reynolds. I'm an Assistant Counsel with the State Police.
10 I represent the defendants in this action. My address is
11 1800 Elmerton Avenue Harrisburg Pa. 17110, which is
12 Pennsylvania State Police Headquarters. My phone
13 number is 717-783-5568.

14 BARBARA CHRISTI: My name is Barbara
15 Christi, Chief Counsel Pennsylvania State Police, and my
16 address and telephone number are the same as those
17 given by Assistant Counsel Reynolds.

18 MR BAILEY: Okay Rick, can I refer to you as
19 Rick? Is that okay?

20 MR BROWN: Absolutely that's my nickname,
21 yes.

22 MR BAILEY: I'm Don. What we're going to be
23 doing here today Rick. I know you've sat in on some of it.
24 Let me very quickly go through it cause now you're a fact
25 witness and it's a little different when your in your

1 position and I realize that. It's a video deposition. We
2 maintain a copy here. You are invited and welcomed to
3 come here anytime and review the video deposition. We
4 will be making a transcript of the deposition. They are
5 available to your counsel that they can work out with
6 Tony, for the same price, as they are available to me.
7 That's number one. Number two, as we go through the
8 deposition from time to time if I inadvertently, I assure
9 you it will be an error on my part, if I inadvertently
10 interfere with your response or don't give you a complete
11 chance to finish I want you to make sure you catch me or
12 you stop me and answer fully and completely if your
13 attorneys don't catch me in the mean time. You have two
14 very capable lawyers here to represent you. Now it's
15 important you stay within the camera range. If not the
16 operator, Mr. Marceca, will let you know. You need to
17 keep your voice up. I don't assume we're going to have
18 any kind of a problem with that. And the last question
19 and this goes for your attorneys also. If at any time
20 during the deposition you want to ask me what I mean by
21 a question or where I'm going with a group of questions.
22 We're not here to trick you. We're not to create a
23 distorted fact record. We want to get everything down. I
24 do not mind giving you an offer on a question. I do not
25 mind responding to you if you a question of me about

1 where I'm going or what I'm trying to do. I won't be
2 offended by that at all. I invited you to do that. That
3 being said, do you have any questions to me?

4 MR BROWN: No sir

5 MR BAILEY: Okay, Rick. Oh, usual
6 stipulations I guess, objections except to form of the
7 question reserved until time of trial. Is that Okay?

8 JOANNA REYNOLDS: Yes, fine

9 MR BAILEY: Okay Rick, now how are you
10 employed?

11 A: I'm employed as a Captain with the
12 Pennsylvania State Police. I'm currently assigned to the
13 Internal Affairs Division of the Bureau of Professional
14 Responsibility.

15 Q: You in fact replaced Mr. Ober at the
16 position. Didn't you?

17 A: That's correct

18 Q: When did that occur?

19 A: January 29th of 2000 was when I was
20 promoted.

21 Q: Now my understand is, I was at an earlier
22 deposition there was an indication from one of your
23 attorneys. I think it was Syndi Guido however no the two
24 attorneys who are here. That you were appointed to
25 some kind of a position as an investigator in this case. Is

1 that correct?

2 A: That's correct

3 Q: Was that by virtue of your capacity in IAD
4 or do you know?

5 A: I don't know

6 Q: What I want to ask you about is a little
7 bit different then that, okay. I have no desire to ask you
8 at least this time about the investigation. Although I will
9 ask you some procedure questions, like if you produced
10 reports or done interim reports and who you gave them
11 to. Mostly what I want to ask you is something that's
12 quite different. These are gonna be fact questions about
13 your knowledge, we believe to be your knowledge, about
14 sequences of event or situations, or conversations that
15 may have occurred that are relevant to this lawsuit. In
16 that regard have you seen or have you had an
17 opportunity to at least review or look at the complaint
18 and the amended complaint in this matter?

19 A: Yes sir

20 Q: Let's go back to the with some
21 background about why we're here today. I'm gonna be
22 asking you about what you may have learned about why
23 or how we came to be here today. It is my understanding
24 that at sometime the FBI or some FBI members had come
25 to Mr. Ober about a federal investigation. Is that correct?

1 A: Yes sir. That's my understanding.

2 Q: Do you have a recollection for your
3 knowledge what Mr. Ober was doing at the time. In other
4 words, what position was he in?

5 A: My recollection he was Director of
6 Internal Affairs, but I think he was acting Bureau
7 Director for the Bureau of Professional Responsibility.

8 Q: Now the Bureau of Professional
9 Responsibility has essentially two divisions. Is that
10 correct?

11 A: That's correct

12 Q: What are those two divisions?

13 A: One being the Internal Affairs Division,
14 and the other division if the System and Process Review
15 Division.

16 Q: Mr. Ober while he was acting capacity
17 and in temporary capacity, apparently as Bureau
18 Director was at the same time the Director of IAD. Is
19 that correct?

20 A: That's correct

21 Q: Have you ever learned or come across any
22 information that explains why the FBI went to Captain
23 Darrell Ober at that time?

24 JOANNA REYNOLDS: I'm gonna object to this
25 question. If the witness only knows about this

1 information from the investigation that he's done for us,
2 because that would be attorney work product information
3 and we would object. I would instruct the witness not to
4 answer that, unless he knows it outside that
5 investigation.

6 MR BAILEY: I'm not gonna pollute the record
7 with objections at this point, but this one is very special.
8 I need to respond to it. I don't agree with that analysis. I
9 don't believe an attorney can extent any privilege of work
10 product to an investigators be like a DA saying that he
11 doesn't have to talk about what some police officer
12 investigated. So you would object to that, but you of
13 course follow your attorney's instructions. At this time I
14 just want to place an objection to the objection.

15 JOANNA REYNOLDS: Don, just so the witness
16 is clear on this. If he knows that information outside
17 that investigation at the attorney's request, he may
18 answer the question. If he does not then he should not
19 answer the question.

20 MR BAILEY: Rick let me do it this way. When
21 did the attorneys, any of them come to you and say you
22 are now an attorney or investigator or whatever the hell it
23 is? Tell me when that occurred.

24 A: I want to say March or April. I think
25 April of 2001.

1 Q: That was after this lawsuit began. Is that
2 correct?

3 A: Yes sir

4 Q: With my objection standing, but out of
5 respect for opposing counsel's interactions to you, which
6 I respect and disagree with. Why don't we agree that
7 unless I specify other wise so that your attorney has
8 notice, that none of my questions should be considered
9 as addressing anything that may have happened after
10 March or April of 2001. Can we agree with that, and that
11 will solve our problem I think?

12 JOANNA REYNOLDS: The problem, no it's not
13 gonna solve our problem, because some of these events
14 occurred before March or April 2001 but the witness only
15 learned of them because he was doing this investigation.
16 In other words he was investigating events...

17 MR BAILEY: Let me

18 JOANNA REYNOLDS: That happened before
19 March or April of 2001.

20 MR BAILEY: Let me clear this up, because I
21 did not make myself clear. Again with the understanding
22 that I disagree with counsel, that she can not cloak you
23 with her privilege. It's not her work product at all it's
24 your work product. If she wants to go investigate she can
25 do it. It might take her out of some immunities, not that

1 I'd love to see that happen, but point and fact is I don't
2 think she can give you her immunities. So let's
3 understand that we're talking about when you learned of
4 it, okay? Is that alright? Okay, so with that
5 understanding and the fact that you know what the oath
6 is and what your duties and obligations are, if you need
7 to think about that or something when I ask you a
8 question you think about that. Okay?

9 A: Okay

10 Q: Cause the things I have to ask you about
11 in all honesty are fact issues that really would be what
12 you knew before then anyway. So from a technical point
13 of view I don't agree with your attorney. From a practical
14 point of view I don't think it should interfere with this
15 deposition at this time, okay?

16 A: Okay

17 Q: Alright sir. So we're talking about things
18 that you learned up to or on or before March or April of
19 2001, okay? Understood?

20 A: Yes Sir

21 Q: Alright now until you replaced Captain
22 Ober and that was January 29, 2000, what had you been
23 performing? What were you doing?

24 A: Well I was in acting role. When Captain
25 Ober went to the IIMS project I was assigned as the

1 acting Director of Internal Affairs to perform his duties.
2 That would have been April 26 of 1999. That lasted until
3 I was promoted. During that time period even though I
4 was doing the duties of a Captain I still had my
5 Lieutenant duties to perform. I was still the Central
6 Section Commander in the Internal Affairs Central
7 Section, and responsible for scheduling, redoing reports,
8 and giving assignments. So I still have that. Also when
9 Captain Ober went to IIMS I picked up, he was involved
10 in the discipline committee. Which was a committee that
11 the department and the union, the PSTA had together to
12 look at revising the current regulations in regards to
13 internal investigation, discipline, so on and so forth, and
14 I pick up going to his meetings and ended up following it
15 all the way to when I'm at with it now.

16 Q: Until Captain Ober went over to IIMS,
17 and by the way what does IIMS stand for? Do you know
18 what the acronym stands for?

19 A: To the best of my knowledge it's the
20 Incident Information Management System or something
21 like that. It's an automation project.

22 Q: And what's that about?

23 A: As far as I know, I not the most
24 technology oriented person around, but as far as I know
25 it's automating the department as far as forms and

1 having a centralized. Let me say this. I was called in to
2 get an Internal Affairs perspective by the people involved,
3 the contracted people, and they were saying what could
4 Internal Affairs use in this automation project? We could
5 help you out with your forms, your reports, and that sort
6 of thing. So I imagine at some point and time you'll be
7 able to sit at a computer and do everything and get rid of
8 the paper. You know the actual physical paper.

9 Q: The idea behind IIMS is to lessen the
10 number of human errors in using a database that would
11 boost productivity investigatory, record keeping, and
12 administrative productivity. Isn't that basically the idea?

13 A: That's basically it, but always keep in
14 mind too those sort of things are only good as what you
15 put in them.

16 Q: Right, and this is a project that...who had
17 assigned Captain Ober tot he IIMS project? Wasn't that
18 Commissioner Evanko?

19 A: I recall seeing a CLEAN message on his
20 status of going over there, and I believe it was from the
21 Commissioner. But as far as how he came to that I don't
22 know.

23 Q: IIMS was a very high priority for the
24 Commissioner as I understand it. Is that correct?

25 A: Like I said that's outside of my realm. I

1 don't know what is was on the Commissioner's plate.

2 Q: But the Commissioner, to the best of your
3 knowledge, had assigned Darrell to that position in
4 sometime in April of '99 you indicated.

5 A: Yes sir. I believe it would have been, I
6 think he went there effective April 26th of '99. Cause that
7 was the day that I became the acting Director of Internal
8 Affairs.

9 Q: Yes sir. Now when did the FBI come to
10 Darrell?

11 A: To my knowledge it would have been late
12 September, early October of '98.

13 Q: Now did you at some time learned when
14 Darrell had informed the Commissioner about the FBI's
15 request?

16 A: What I recall sir is Captain Ober

17 JOANNA REYNOLDS: Again I would caution
18 the witness if you learned of that after you began the
19 investigation in this case, then it's attorney work product
20 and you should not testify to that.

21 MR BAILEY: Mr. Brown, we know that you
22 knew about it before you, you know, okay?

23 MR BROWN: Okay

24 MR BAILEY: I know that. I know that from a
25 variety of sources. Let me say this to you. You're a very

19

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT
3 OF PENNSYLVANIA

4 * * * * *

5 DARRELL G. OBER, *
6 Plaintiff * No.
7 vs. *

8 PAUL EVANKO, MARK *
9 CAMPBELL, THOMAS *
10 COURY, JOSEPH *
11 WESTCOTT, *
12 HAWTHORNE CONLEY, *
13 Defendants *

14 * * * * *

15
16 VIDEOTAPED DEPOSITION OF
17 MARK CAMPBELL
18 OCTOBER 10, 2001

19
20
21 ORIGINAL

22
23 Any reproduction of this transcript
24 is prohibited without authorization
25 by the certifying agency

VIDEOTAPED DEPOSITION

OF

MARK CAMPBELL, was taken on behalf
of the Plaintiff herein, pursuant to
the Rules of Civil Procedure, taken
before me, the undersigned, Nicole
Susan Montagano, a Court Reporter
and Commissioner of Deeds in and for
the Commonwealth of Pennsylvania, at
the offices of 238 Main Capitol
Building, Harrisburg, Pennsylvania,
on Wednesday, October 10, 2001, at
2:08 p.m.

A P P E A R A N C E S

DON BAILEY, ESQUIRE

4311 North 6th Street

Harrisburg, PA 17110

COUNSEL FOR PLAINTIFF

SYNDI L. GUIDO, ESQUIRE

Governor's Office of General Counsel

333 Market Street

17th Floor

Harrisburg, PA 17101

COUNSEL FOR DEFENDANTS

JOANN REYNOLDS, ESQUIRE

1800 Elmerton Avenue

Harrisburg, PA 17110

COUNSEL FOR STATE POLICE

4

I N D E X

WITNESS: MARK CAMPBELL

EXAMINATION

BY ATTORNEY BAILEY

9 - 90

CERTIFICATE

92

5

EXHIBIT PAGE

PAGE

NUMBER

IDENTIFICATION

IDENTIFIED

NONE OFFERED

6

OBJECTION PAGE

ATTORNEY

PAGE

GUIDO

63

P R O C E E D I N G S

VIDEOGRAPHER:

Good afternoon. My name is Anthony Marcica (phonetic). And my address is 2219 Dixie Drive, York, Pennsylvania. And I'm contracted by PR Video to conduct this video deposition on behalf of the Plaintiff. This matter is docketed at 1:CV-01-0084 in the United States District Court for the Middle District of Pennsylvania. The caption is Darrell A. Ober ---.

ATTORNEY BAILEY:

G. Ober.

VIDEOGRAPHER:

Correct on that, Darrell G. Ober versus Paul Evanko, et. al.

8

1 Could I take a sound
2 check, please?

3 ATTORNEY BAILEY:

4 Yes. My name is Don
5 Bailey. I'm the attorney
6 for Plaintiff. Mark, we
7 can go with you.

8 MR. CAMPBELL:

9 Mark Campbell.

10 ATTORNEY BAILEY:

11 Cindy?

12 ATTORNEY GUIDO:

13 Cindy Guido. I'm
14 Counsel to Defendants.

15 ATTORNEY REYNOLDS:

16 Joanna Reynolds,
17 Counsel for Defendants,
18 Pennsylvania State
19 Police.

20 ATTORNEY BAILEY:

21 Ladies and gentlemen,
22 as I said, this is the
23 Plaintiff's deposition.
24 The video is now running.
25 Tony, you may want to

9

1 announce the time. And
2 we'll have the Court
3 Reporter --- since they
4 want a transcript, we'll
5 have the Court Reporter
6 swear the witness.

7 VIDEOGRAPHER:

8 The video is now
9 running at 1408 on 10
10 October 2001.

11 ATTORNEY BAILEY:

12 Miss, would you
13 administer the oath,
14 please.

15 - - - - -

16 MARK CAMPBELL, HAVING FIRST BEEN
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 - - - - -

19 EXAMINATION

20 BY ATTORNEY BAILEY:

21 Q. Mr. Campbell, as I had
22 indicated earlier, we met very
23 briefly. My name is Don Bailey.
24 I'm an attorney. I represent the
25 Plaintiff in this matter, Darrell

10

1 Ober. Darrell is with me and is
2 sitting to my left. This is a video
3 deposition, so if you at any time
4 feel the need to get up or to leave
5 your chair, let us know. We will
6 suspend the video at that point.
7 And that way, we will have a
8 complete and total record.

9 During the deposition, I
10 will be asking you various
11 questions. It's important that you
12 --- I probably don't need to tell
13 you these things. I don't want you
14 to take them as condescending, but
15 it is a process I need to go
16 through.

17 A. Sure.

18 Q. I will be asking you
19 various questions at different
20 times. And, of course, it's
21 important particularly because we
22 are taking this record by
23 stenographic means, especially that
24 you let a little time transpire
25 between when you respond --- when I

11

1 ask a question and you respond.

2 A. Okay.

3 Q. Mark, if I at any time
4 step on the toes of your answer, and
5 I assure you I will be the one at
6 fault, it's not going to be, make
7 sure that you correct me. You have
8 two fine lawyers with you. They're,
9 I'm sure, going to make sure that
10 they remind me when I do something
11 that they feel is wrong or in
12 error. But you are the only one who
13 knows in your mind if you completed
14 an answer. And it is very important
15 for you to answer completely and
16 fully. The law requires not only a
17 truthful answer, which I assure you
18 know, but it also requires a
19 complete and full answer.

20 Now, from time to time ---
21 and my instructions to deponents are
22 a little different than most
23 attorneys. I have no interest in
24 any kind of trick questions, smoking
25 gun question or anything like that.

12

1 And I mean that sincerely.

2 Therefore, if at any time during the
3 deposition you're curious about
4 where I'm going with that line of
5 questions or with a particular
6 question, I want you to feel free to
7 ask me. I will give you an offer.
8 I will tell you where I'm coming
9 from ---

10 A. Sure.

11 Q. --- what I mean by a
12 question, et cetera. The other
13 thing is you know you do have to
14 keep your voice up. You do have to
15 be verbal in your responses. You
16 can't just stipulate. With that
17 said, before we begin, just a couple
18 chores that the attorneys have to
19 clear up. I would ask do you have
20 any questions of me before we ---?

21 A. No, sir.

22 ATTORNEY BAILEY:

23 To opposing Counsel,
24 I would assume that the
25 usual stipulations,

13

1 objections, except as to
2 the form of question would
3 be reserved until the time
4 of trial. Is that
5 acceptable?

6 ATTORNEY GUIDO:

7 That is what we plan
8 to do, yes.

9 ATTORNEY BAILEY:

10 Okay. If everyone is
11 ready, we can begin.

12 A. Sure.

13 BY ATTORNEY BAILEY:

14 Q. The last thing --- the
15 other thing I don't object to is if
16 at any time you want to stop and
17 talk to your attorneys or go
18 outside, I want you to feel free to
19 do that. Normally, you are not
20 supposed to talk during a
21 deposition, but as I said before, I
22 really don't mind. So if you feel
23 some need you have to suspend, don't
24 be afraid to ask. Mark, for the
25 record, could you state your full

1 name?

2 A. Mark Richard Campbell, Jr.

3 Q. How are you employed?

4 A. Currently chief of staff
5 to Governor Mark Schweiker.

6 Q. And I realize that there
7 has been a change of leadership with
8 Mr. Ridge, Governor Ridge going to
9 Washington. But is it fair to say
10 that you previously had worked for
11 Mr. Ridge?

12 A. I was most recently before
13 this, chief of staff to Governor
14 Ridge.

15 Q. And how long were you
16 chief of staff to Governor Ridge?

17 A. I've been chief of staff
18 since January of 2001.

19 Q. Now, very briefly, what
20 does chief of staff do?

21 A. Chief of staff serves to,
22 I think, at least with Governor
23 Ridge and Governor Schweiker ---.

24 Q. For the sake of just
25 helping you ---

1 A. Sure.

2 Q. --- I think we can
3 probably most --- is it fair to say
4 we can all agree that the events
5 complained of in the complaint all
6 occurred under Governor Ridge during
7 his tenure?

8 A. Sure.

9 Q. There is no reason to get
10 into Governor Schweiker at all. I
11 respect the fact that you now work
12 for him. But just saves time.

13 A. Sure.

14 Q. Go ahead.

15 A. Primarily served as the
16 Governor's liaison to all of his
17 cabinet agencies and to his senior
18 staff, and helped to ensure that the
19 Governor's agenda was developed,
20 enacted and initiated. And that
21 required me to work with all of our
22 cabinet officers, our senior staff,
23 as I mentioned earlier. And I
24 helped to oversee a \$21 billion
25 80,000 employee undertaking.

1 Q. If in sorting through some
2 of the adjectives, the descriptive
3 adjectives that you used, is it fair
4 to say that your job pretty much
5 amounted to getting things done?

6 A. Sure.

7 Q. Facilitating or seeing
8 that policy, directives and that
9 sort of thing were carried out?

10 A. Yes, sir.

11 Q. And I may have missed it,
12 but how long --- strike that.

13 Are you familiar with the
14 Complaint in this matter?

15 A. I am.

16 Q. Have you been able to
17 review it, review the Complaint?

18 A. I did on one occasion,
19 yes.

20 Q. Now, in the Complaint ---
21 do you know when the Complaint ---
22 the Complaint was filed in
23 Harrisburg. This is the amended
24 Complaint, on May 2nd, 2001. Maybe
25 opposing Counsel can help me. The

1 original Complaint was filed in
2 January 16th of 2001. Is that
3 consistent with your --- if you
4 remember?

5 A. I don't remember the
6 dates.

7 Q. Mark, when did you first
8 become aware of the Complaint?

9 A. Of the Complaint?

10 Q. Yes, sir.

11 A. Probably, and taking for
12 granted the January filing date,
13 probably shortly after it was filed.

14 Q. How did you become aware
15 of it?

16 A. I believe through our
17 Office of General Counsel.

18 Q. One thing I want to point
19 out to you, I'm sure you already
20 been advised, but if you haven't,
21 from time to time if I ask a
22 question that --- I don't want to
23 impinge on attorney-client
24 privilege. If I ask a question
25 where you have discussed something

1 in the presence of your Counsel
2 privately, that's called
3 privileged. You do not have to
4 respond. Are you an attorney?

5 A. No, I'm not.

6 Q. I will make sure I double
7 do these things. So you are not to
8 respond to those. If you have any
9 question, ask your Counsel. If she
10 has a concern, I'm sure she is going
11 to speak up right away.

12 A. Right.

13 Q. Is it fair to say in a
14 given week during the time during,
15 let's say, the year 2000, the year
16 2001, that you would meet with
17 different heads of various agencies
18 of government that come under the
19 Governor's jurisdiction?

20 A. Yes.

21 Q. And you pretty much did
22 that on a regular basis?

23 A. Yes.

24 Q. Do you keep any kind of
25 calendar or schedule?

1 A. I have a schedule via my
2 computer, so yes.

3 Q. What kind of software do
4 you use? I'm sure it's a Windows
5 operating system?

6 A. Microsoft. I forget the
7 name of the product.

8 Q. Is it generic to the
9 Governor's office or do you have a
10 private computer that you keep these
11 things on?

12 A. No. It's the computer
13 here in the Governor's office.

14 Q. And do you have a
15 secretary, a private secretary, that
16 works only for you?

17 A. Yes, I do.

18 Q. What is her name?

19 A. Mary Quigley.

20 Q. How long has she been in
21 that position?

22 A. Mary has been my secretary
23 for probably --- I don't recall
24 exactly, but it's probably been the
25 last two years approximately.

20

1 Q. Does she act as a
2 receptionist for you for receiving
3 incoming calls and helping you
4 schedule appointments?

5 A. Yes.

6 Q. Does she make any
7 decisions to schedule for you?

8 A. She will at times.

9 Q. You're, I assume, the
10 final arbiter to what schedule you
11 keep? Well, maybe the Governor
12 would be, but ---?

13 A. Right.

14 Q. That is fair to say?

15 A. Yes, that would be true.

16 Q. Okay, sure. Now Mark, I'm
17 going to be shifting gears a little
18 bit now. And I want to ask you some
19 more questions that are specific to
20 the Complaint. Do you know
21 Pennsylvania State Police
22 Commissioner Paul Evanko?

23 A. Do I know him?

24 Q. Yes.

25 A. Yes.

1 Q. How long have you known
2 Paul Evanko?

3 A. Since probably somewhere
4 around the beginning of 1995.

5 Q. And how did you have
6 occasion to first meet Paul Evanko?

7 A. One of my initial tasks
8 with the Governor was to interview
9 potential cabinet secretaries for
10 several agencies, the state police
11 being one of those agencies that I
12 was a member of a panel that
13 interviewed various candidates and
14 made recommendations to the
15 Governor.

16 Q. Who else was on that
17 panel?

18 A. Lieutenant Governor
19 Schweiker and Tom Corbett. And I
20 believe there was a fourth member,
21 but I don't recall right now who
22 that would have been.

23 Q. Now, Mark, do you have a
24 recollection of who recommended Paul
25 Evanko for his position?

1 A. Colonel Evanko's name was
2 first raised with me and suggested
3 to me by Mike Marino.

4 Q. Anyone else that you can
5 remember?

6 A. No, sir.

7 Q. Did you meet and interview
8 Mr. Evanko?

9 A. He came before that group
10 that I mentioned earlier, and was
11 interviewed by the panel, yes.

12 Q. Now, I'm going to switch
13 gears on you again, a little bit
14 different direction here. Do you
15 have any kind of a reporting kind of
16 a system? Let me explain what I
17 mean, where I'm coming from on
18 that. Do you have any kind of
19 operating procedure, SOP, as it's
20 commonly referred to, where cabinet
21 officers either report or
22 communicate information to the
23 Governor or as chief of staff to,
24 which in most administrations, I've
25 been familiar with a chief of staff

1 as an alter ego. And typically,
2 again, in my experience probably the
3 next most powerful man in the
4 government system --- or woman have
5 held those kind of positions also.
6 And I'm asking you if there was any
7 kind of procedure set up where there
8 was a standard way to report or
9 supply information?

10 A. The only regularly
11 scheduled communication between the
12 Governor and the members of his
13 cabinet were through biweekly
14 reports, written reports that the
15 cabinet officers would provide to
16 the Governor. Other than that,
17 cabinet officers would bring matters
18 to the Governor's attention on an
19 as-needed basis.

20 Q. Now, isn't it so that
21 there is some type of a cabinet
22 meeting or procedure that deals with
23 personnel matters?

24 A. Not that I'm aware of, no.

25 Q. Well, take an issue like

1 on behalf of a state employee for
2 extended leave, any issues like that
3 that ever come to the level of a
4 cabinet position where they need to
5 be signed off on, et cetera, that
6 you know of?

7 A. No, not that I'm aware of.

8 Q. Okay. Do you hold
9 regularly scheduled meetings with
10 cabinet level officials?

11 A. Do I personally?

12 Q. Strike that. Did you
13 during the period of time complained
14 of in the Complaint hold cabinet
15 level meetings with either top staff
16 or cabinet level officials during
17 the period of time of the matters
18 complained of in the Complaint on
19 regularly scheduled time?

20 A. No.

21 Q. Now, the kind of meetings,
22 is it fair to say then that the
23 cabinet official aside from ---
24 strike that.

25 Pennsylvania State Police

25

1 Commissioner, is that cabinet level
2 or is that sub cabinet level?

3 A. It would be cabinet level.

4 Q. Now, the Pennsylvania
5 State Police Commissioner, and Mr.
6 Evanko in this case, let's go back
7 to square one. How often would you
8 meet with him in let's say a
9 monthly, biweekly or yearly basis?

10 A. We didn't have a regularly
11 scheduled series of meetings. I
12 would meet with the Colonel as I
13 would meet with other cabinet
14 officers on an as-needed basis.

15 Q. So everything was ad hoc,
16 that is the way you did things?

17 A. Uh-huh (yes).

18 Q. Was there a regular
19 meeting with the Governor?

20 A. No.

21 Q. The Lieutenant Governor?

22 A. Not that I'm aware of.

23 Q. Legislative leaders?

24 A. Not that I'm aware of.

25 Q. Now, the chain of command

1 for one of a better --- no pun
2 intended, incidentally, in this
3 case. But the chain of command
4 would essentially be the Governor
5 with your assistance, actually, but
6 the Governor to the cabinet level
7 official; right?

8 A. Yes, sir.

9 Q. Is there any procedure in
10 state government known to you,
11 Pennsylvania State Government known
12 to you, where investigations by
13 other than state authorities are to
14 be reported? Do you understand that
15 question? Let me give you a
16 hypothetical one.

17 A. Sure.

18 Q. The FBI is investigating
19 something. And somebody out there
20 gets wind of it, they're looking
21 into some aspect or function of
22 state government. Is there any
23 policy --- was there any policy in
24 state government to report that
25 information?

27

1 A. No, not that I'm aware of.

2 Q. Was there any --- now,
3 there were no written or informal
4 policy, hey, let me know the FBI is
5 checking into this or that, we
6 should know about it?

7 A. No.

8 Q. And by the way, please
9 accept it for what it's worth.
10 There is no implication that that's
11 improper.

12 A. Right.

13 Q. It's a desire to know what
14 is going on out there.

15 A. Right.

16 Q. So there is no particular
17 policy that has to do with reporting
18 or reporting requirement, no
19 regulation. Do you know of any such
20 regulations in the Pennsylvania
21 State Police?

22 A. No, I do not.

23 Q. Have you ever had occasion
24 to consider regulations or potential
25 regulations that would require an

1 employee to report knowledge of
2 investigatory activities? Do you
3 understand that question?

4 A. Have I been aware of any
5 need?

6 Q. Yes, sir. I'm sorry. Let
7 me rephrase that. It was very
8 awkward.

9 A. Sure.

10 Q. Do you have knowledge of
11 any considerations, meetings or
12 discussions, in state government
13 about a policy where one would
14 encourage or one of the officials in
15 state government is supposed to
16 report knowledge of investigatory
17 activity?

18 A. Do I have awareness of any
19 requirement, no, I do not.

20 Q. Were there any --- have
21 you ever held any discussions to
22 that effect?

23 A. No.

24 Q. Do you know of any
25 directions or discussions that have

1 been held by anybody at a cabinet
2 level about reporting investigatory
3 activity?

4 A. No.

5 Q. Do you know of the ---
6 strike that.

7 Did you at some time have
8 a meeting with Paul Evanko where a
9 Mr. Hikus (phonetic) was discussed?

10 A. Had several meetings with
11 the Colonel during the selection
12 process for a new Deputy
13 Commissioner, during which time
14 Colonel Hikus was one of the
15 candidates for that position.

16 Q. Do you have a recollection
17 of Mr. Evanko's position on the
18 selection of Mr. Hikus?

19 A. There were several
20 candidates who were considered. And
21 as I recall, the Colonel considered
22 various attributes of all of the
23 candidates, and ultimately selected
24 Colonel Hikus.

25 Q. So it's your testimony

1 here today, to the best of your
2 knowledge, that Mr. Evanko chose Mr.
3 Hikus for his position?

4 A. Yes, sir.

5 Q. Now, did you ever have
6 occasion to discuss any FBI
7 investigations with Mr. Evanko?

8 A. No.

9 Q. Is it your testimony here
10 today that you never --- that Mr.
11 Evanko never informed you of an FBI
12 investigation into the affairs of
13 either the Pennsylvania State Police
14 or certain Pennsylvania State Police
15 Officers?

16 A. Colonel Evanko did inform
17 me in approximately --- and I know
18 this having read the Complaint, in
19 approximately May of 1999 of a ---
20 what I believe was termed to be a
21 closed FBI investigation regarding
22 activity at the Pennsylvania State
23 Police, and potentially in the
24 Governor's office as well.

25 Q. Mark, do you have a

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1 recollection of what the substance
2 of that investigation was, what Mr.
3 Evanko --- just tell us what you
4 remember Mr. Evanko told you?

5 A. Sure. As I recall, the
6 Colonel informed me that he had been
7 made aware of a completed FBI
8 investigation regarding allegations
9 of the selling of slots, cadet slots
10 at the Pennsylvania State Police
11 Training Academy that may have
12 involved either employees of the
13 Commissioner's office or the
14 Governor's office.

15 Q. How did you feel about
16 that? What was your reaction to
17 that at the time --- I mean,
18 currently I would assume that that's
19 something of concern. I realize
20 that. So I'm not looking so much in
21 terms of your visceral or personal
22 reaction. I'm not so sure that is a
23 fair question. But I'm looking more
24 in terms of as a professional in
25 your position, what was your

1 reaction? How did you react to
2 that?

3 A. My concern at the time was
4 understanding what the allegations
5 were regarding the Governor's
6 office, and was told by the Colonel
7 at the time that the investigation
8 had been completed, had been
9 concluded, and that the allegations
10 involving the Governor's office had
11 been unfounded. So feeling that
12 there was no implication of the
13 Governor's office, I really didn't
14 have any concerns going forward.

15 Q. Mark, now after --- your
16 best recollection is that Mr. Evanko
17 reported this information to you on
18 or about May of 1999; am I correct?

19 A. That's, again, from my
20 recollection of what the Complaint
21 said, yes.

22 Q. Now, I want you to think
23 independently. I want you to go
24 back in your mind's eye. Set the
25 Complaint aside.

1 A. Okay.

2 Q. And do you have any other
3 source of information as you sit
4 here today that would indicate to
5 you --- that you could share with us
6 about when Mr. Evanko brought that
7 information to you?

8 A. No, I don't.

9 Q. Did you make any notes?

10 A. No, I did not.

11 Q. I would assume that you
12 asked Mr. Evanko some questions?

13 A. I don't recall what, if
14 any, questions I asked. My
15 recollection of the conversation was
16 that it was the Colonel who was
17 providing information to me. And I
18 believe I for the most part
19 listened.

20 Q. And I think you had
21 indicated that he told you it was a
22 closed investigation?

23 A. That's my recollection,
24 yes.

25 Q. Did he indicate where he

1 got his information?

2 A. I don't recall.

3 Q. Did he at any time
4 indicate to you that the source of
5 the information was the FBI?

6 A. I don't recall that he
7 indicated that.

8 Q. Mark, do you remember if
9 he indicated whether or not he had
10 indicated or intended to contact, or
11 talked to Lou Freed, Judge Freed,
12 the FBI director?

13 A. I believe the Colonel did
14 at some point indicate that he would
15 reach out to the FBI to ascertain
16 exactly the nature of the
17 investigation and its status.

18 Q. Now, did he share any
19 information about how the
20 investigation arose or what
21 triggered it?

22 A. No. He provided me, as I
23 recall, with just the sort of very
24 basic one to two sentence facts in
25 terms of the allegation itself.

1 Q. Now, you had indicated in
2 response to an earlier question that
3 the standard operating procedure,
4 those are my words, they were not
5 yours, that normally the
6 communication was by memo or e-mail
7 of some sort, typically a report?

8 A. There was, yes --- I think
9 the question that was put to me at
10 that time was what sort of regularly
11 scheduled communication occurs
12 between the Governor and his
13 cabinet. And the one regular form
14 of communication are written reports
15 that are sent to the Governor.

16 Q. Did Mr. Evanko ever put
17 any of that information into a
18 written report from the Governor?

19 A. I don't know.

20 Q. Did you ever check to see?

21 A. No, I did not.

22 Q. Have you looked for any
23 communicates, documentary evidence,
24 e-mail, electromagnetic taped
25 evidence or anything like that of

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1 Mr. Evanko's communication to you or
2 to the Governor's office?

3 A. No, I have not.

4 Q. Now, who was present when
5 Mr. Evanko shared this information
6 with you?

7 A. I don't believe anyone
8 else was present.

9 Q. Where did the meeting ---
10 I assume it was not --- based on the
11 way you described it, I assume it
12 was a personal meeting?

13 A. It was a phone call.

14 Q. It was a telephone call.
15 Do you know where Mr. Evanko was
16 when he made that telephone call?

17 A. No, I don't.

18 Q. Do you remember where you
19 were when you made that telephone
20 call?

21 A. I was in my office.

22 Q. Do you remember how long
23 that telephone conversation was?

24 A. I don't remember how long
25 it was. It was no more than a few

1 minutes.

2 Q. Mark, I want you to think
3 back on that conversation very
4 carefully now, and particularly this
5 question here. During that
6 conversation, did Mr. Evanko discuss
7 Mr. Hikus?

8 A. I don't recall. I don't
9 remember him discussing Hikus, no.

10 Q. Have you ever discussed
11 this matter or this issue with Mr.
12 Hikus?

13 A. Not that I can recall, no.

14 Q. Do you have a recollection
15 of every discussing this litigation
16 with Mr. Evanko?

17 A. Other than acknowledging
18 that the Complaint had been filed,
19 no. Nothing beyond that, no.

20 Q. Do you have a recollection
21 of discussing, you know, when your
22 attorneys weren't present, of course
23 --- well, actually if your attorneys
24 are present, it's not a defendant,
25 it's not privileged. But do you

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1 ever have a recollection --- you can
2 tell me if you discussed, and then
3 we'll worry about whether it is
4 privileged or not. We will get the
5 substantive question. Did you ever
6 discuss any of the contents of the
7 Complaint with any of the other
8 Defendants in this matter?

9 A. No.

10 Q. Let me make sure. Let me
11 read this to you. You're a
12 Defendant. Mr. Evanko is a
13 Defendant. Thomas Coury, did you
14 ever discuss it with him?

15 A. No.

16 Q. Do you know Mr. Coury?

17 A. Yes, I do.

18 Q. How long have you known
19 Mr. Coury?

20 A. Approximately the spring
21 of 1995.

22 Q. Right around the same
23 time?

24 A. Yes, sir.

25 Q. Do you know Mr. Westcott?

1 A. Yes, I do.

2 Q. Have you ever discussed it
3 with him?

4 A. No.

5 Q. How about Joanna Reynolds
6 and Cindy Guido are no longer
7 Defendants in this action.

8 Hawthorne Conley, have you ever
9 discussed it with him?

10 A. No, I've not.

11 Q. Mark, there is an
12 allegation in the amended Complaint,
13 and there was an allegation in the
14 original Complaint that Mr. --- that
15 in substance that Mr. Evanko
16 informed you about this
17 investigation and sought permission
18 to investigate Captain Ober. Your
19 answer appears to at least generally
20 deny that allegation. I'm going to
21 change again direction here a little
22 bit. And I want to ask you some
23 questions about that. Okay?

24 A. Uh-huh (yes).

25 Q. Do you know Captain Ober?

40

1 A. No, I do not.

2 Q. Did you know who Captain
3 Ober was before this Complaint was
4 filed?

5 A. No, I did not.

6 Q. Have you ever discussed
7 Captain Ober with Commissioner
8 Evanko?

9 A. Outside of matters
10 involving this Complaint?

11 Q. No. We can start there,
12 outside of matters involving this
13 Complaint?

14 A. No.

15 Q. Have you ever discussed
16 Captain Ober with Paul Evanko
17 relating or regarding matters having
18 to do with this Complaint?

19 A. I'm not sure what you mean
20 by discuss. I mean, I ---.

21 Q. Any communication between
22 two human beings is a discussion, I
23 guess, of some sorts, whether it's
24 by verbal or written means.

25 A. I first heard --- and to

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1 the extent that I had discussions
2 with Colonel Evanko regarding Mr.
3 Ober, it was that the Colonel might
4 mention his name in passing, for
5 instance, when the Colonel called to
6 inform me it's possible that Captain
7 Ober's name may have been mentioned
8 during that conversation, but I
9 don't recall specifically.

10 Q. It's possible that Captain
11 Ober was discussed during the
12 conversation when Mr. --- if I
13 understand you correctly, it's
14 possible, underlining the word
15 possible, that Mr. Ober was
16 discussed during the conversation
17 when Mr. Evanko informed you about
18 the FBI investigation into the
19 potential sales or the alleged --- I
20 don't know exactly what it was, but
21 the closed investigation into the
22 alleged sale of positions at the
23 Academy; is that right? Am I
24 correct in that?

25 A. I don't recall

1 specifically. I'm sure it's
2 possible.

3 Q. Did you ever have any
4 discussions with Mr. Evanko after
5 that initial discussion when he
6 informed you of the FBI interest
7 where Captain Ober was mentioned?

8 A. I believe I participated
9 in a discussion involving Counsel,
10 where the result of the Colonel's
11 investigation was discussed.

12 Q. Well, I'm going to get
13 that. That is a whole area. And
14 I'm going to get to that.

15 A. Okay.

16 Q. Now, I'm still
17 concentrating on the original or the
18 initial discussions as to Captain
19 --- I mean, I'm sorry, as to Mr.
20 Evanko informing you.

21 A. Uh-huh (yes).

22 Q. Did Mr. Evanko when he
23 informed you of what the FBI was
24 doing, did he indicate anything to
25 you that caused you to believe that

1 he was going to look into the matter
2 or try to learn more information
3 about the matter?

4 A. The Colonel did indicate
5 to me that he planned to initiate an
6 internal investigation over how this
7 matter was handled by the
8 Pennsylvania State Police.

9 Q. Did Commissioner Ober
10 indicate what he meant by, to borrow
11 your words, how the matter was
12 handled by the Pennsylvania State
13 Police?

14 A. Did he indicate how?

15 Q. Let me explain, Mark,
16 where I'm coming from.

17 A. Sure.

18 Q. From what you told us so
19 far, my understanding is --- it's
20 easy to understand this line of
21 questions this way. My
22 understanding is that Mr. Evanko
23 called you to tell you about this
24 closed investigation?

25 A. Uh-huh (yes).

1 Q. Now, he also indicated
2 that he was going to initiate an
3 investigation into how the
4 Pennsylvania State Police handled
5 this matter?

6 A. Yes.

7 Q. Now, that begs a
8 question. And this may be a few
9 questions. That indicates that Mr.
10 Evanko wanted to know how the FBI
11 handled --- or how the Pennsylvania
12 State Police handled the FBI
13 interest --- the FBI inquiry; is
14 that fair to say?

15 A. I think that's --- you'd
16 have to ask Colonel Evanko that.

17 Q. How did you understand it?

18 A. That the Colonel wanted to
19 better understand how this
20 information was, in fact, handled by
21 his agency, and how, I guess, his
22 agency had perhaps worked with the
23 FBI regarding the investigation.

24 Q. Mark, did he say why he
25 had an interest in that area?

1 A. No, I don't recall him
2 saying why.

3 Q. Did you ask him why he was
4 concerned about how the Pennsylvania
5 State Police handled an FBI inquiry?

6 A. I considered it to be ---
7 once I had ascertained that there
8 was not any involvement on the part
9 of anyone in the Governor's office,
10 and that, in fact, there was not any
11 involvement on the part of anyone at
12 the state police, I considered the
13 matter at that point to be a matter
14 for the Colonel to address through
15 sort of, you know, the
16 administrative channels of the
17 Pennsylvania State Police.

18 Q. Why would he want to ---
19 why did you understand he wanted to
20 address that?

21 A. Why do I understand why he
22 wanted to address ---?

23 Q. Let me lay some
24 foundation.

25 A. Sure.

1 Q. The Federal Bureau of
2 Investigation by reputation, at
3 least, one of the finest law
4 enforcement agencies in the world;
5 would you agree?

6 A. Yes, sir.

7 Q. Mr. Evanko asked you ---
8 or I'm sorry, Mr. Evanko informed
9 you that the --- in essence, in
10 effect, the FBI had closed an
11 investigation into something that
12 was going on?

13 A. Yes, sir.

14 Q. Did Mr. Evanko indicate to
15 you that he was informed belatedly
16 about the FBI inquiry?

17 A. I believe he did. I
18 believe that he shared the --- you
19 know, that he was sharing the
20 information with me after he as well
21 had been informed that the
22 investigation had been closed, and
23 that he was not aware of the
24 investigation prior to that.

25 Q. Exactly. In other words,

1 the investigation had taken place,
2 the investigation had thank God, and
3 my compliments to you and the
4 Governor and your staff, but thank
5 God the investigation had been
6 closed, and Mr. Evanko was informing
7 you that there is no indication you
8 guys did anything wrong or that you
9 did anything wrong?

10 A. Right.

11 Q. But I just found out about
12 it myself; right?

13 A. That's what he indicated
14 to me, yes.

15 Q. Sure. And was he angry,
16 Mark?

17 A. I don't recall that he was
18 angry. I believe he was concerned
19 that the matter had just been
20 brought to his attention.

21 Q. But didn't you tell us
22 that he said to you that the
23 investigation had been into possibly
24 people --- or allegations involving
25 people in the Governor's office or

1 Lieutenant Governor's office, maybe
2 you corrected me, I think, and
3 higher ups in the State Police?

4 A. That's what he had
5 indicated to me, yes.

6 Q. Sure. So when he was
7 telling you that, he was also
8 indicating to you that he had only
9 learned about this after the
10 investigation was done?

11 A. Yes.

12 Q. Did you ask him who had
13 knowledge of the investigation
14 before it was closed?

15 A. No, I did not.

16 Q. I think you had indicated
17 it might have been possible that Mr.
18 Ober was discussed during that
19 conversation, but you have no
20 specific recollection?

21 A. Correct.

22 Q. But you do recollect that
23 Mr. Evanko indicated to you that he
24 was going to investigate how, quote,
25 unquote, to use your words, the

1 Pennsylvania State Police had
2 handled the investigation?

3 A. Yes, sir.

4 Q. So that meant that he was
5 going to --- that he wanted to
6 investigate how the FBI had dealt
7 with the --- I'm sorry. How the
8 Pennsylvania State Police had dealt
9 with the FBI inquiry?

10 A. I guess that's what the
11 Colonel wanted to ascertain, yes.

12 Q. Mark, didn't that concern
13 you?

14 A. No, it really did not.
15 The way in which the Governor's
16 office interacts with its cabinet
17 officer is to leave, frankly, those
18 kind of administrative decisions and
19 discretion to the cabinet
20 secretary. My concern, as I had
21 indicated earlier, was ascertaining
22 what, if any, involvement there had
23 been on the part of the Governor's
24 office. Once I was informed that,
25 in fact, the investigation had not

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1 found that there was any
2 involvement, frankly, I saw it as
3 the Colonel's --- that it was
4 appropriate for the Colonel to
5 follow up in whatever way he deemed
6 appropriate. Because at that point
7 I viewed it as a matter --- an
8 administrative matter internal to
9 the Pennsylvania State Police.

10 Q. I'm not trying to be
11 facetious or contentious. Do you
12 trust the FBI?

13 A. Do I trust the FBI?

14 Q. Sure.

15 A. I don't know the FBI. I
16 have no reason not to trust the FBI.

17 Q. It's a good thing you are
18 not questioning me today. You can
19 strike that, by the way. Let me ask
20 you, did you have a concern that
21 Colonel Evanko was upset that he had
22 not known about this when it was
23 going on, the FBI investigation?

24 A. Did I have a concern, no.

25 Q. Well, you had understood

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1 that the FBI investigation had been
2 into the Governor's office and
3 higher ups in the State Police;
4 right?

5 A. That was the allegation,
6 yes.

7 Q. Would you expect the FBI
8 if they heard such allegations to
9 come and check with you first or to
10 do their investigation first?

11 A. I would not expect them to
12 come, no--- I would not expect them
13 to come to me.

14 Q. Of course not. Because
15 they might compromise the
16 investigation; right?

17 A. Yes, sir.

18 Q. And all of us --- again,
19 I'm not trying to talk down to you.

20 A. Sure.

21 Q. But I think all of us
22 realize that in a society ruled by
23 laws and not by men, that you follow
24 procedures. And regardless of what
25 level, a law enforcement agency has

1 got to do its investigation; right?

2 A. Yes, sir.

3 Q. Did you ask Colonel Evanko
4 why he was concerned that there be
5 an investigation into how his agency
6 handled a closed FBI investigation,
7 which quite frankly apparently
8 yielded good results, that were
9 laudatory as far as the integrity of
10 the Governor's office is concerned
11 at least?

12 A. No, I did not.

13 Q. Do you know what a whistle
14 blower statute is?

15 A. I'm generally familiar
16 with the terminology.

17 Q. Is it fair to say that if
18 you became aware of some issue of
19 apparent corruption in government,
20 that you would report it to law
21 enforcement authorities?

22 A. Yes, sir.

23 Q. You would expect, I'm
24 sure, that anyone who works in the
25 Governor's office or under you, you

53

1 would expect them to do the same; is
2 that correct?

3 A. Uh-huh (yes), yes, sir.

4 Q. And you --- and this may
5 be an unfair question because I
6 realize, having been there and done
7 that to some extent, that it's an
8 extremely difficult one. Is it fair
9 to say that in doing so, in looking
10 at matters of public corruption, the
11 first obligation that you have is to
12 lawfully examine and lawfully report
13 and investigate a public corruption
14 and put that ahead of political
15 concerns; isn't that correct?
16 Politics second, law first?

17 A. Sure.

18 Q. Were you concerned that
19 Mr. Evanko was personally angry over
20 being informed after the fact about
21 the FBI investigation? Did he say
22 that?

23 A. Not that I recall, no.

24 Q. Did he ask you if you knew
25 anything about it?

1 A. No.

2 Q. Did you ask him to find
3 out why it hadn't been --- why you
4 hadn't been informed earlier?

5 A. No.

6 Q. You were not upset that
7 you had not been informed before the
8 investigation was done; is that
9 correct?

10 A. Yes.

11 Q. Did you have visions going
12 through your mind, have they been
13 tapping my telephone, have they been
14 bugging the office, have they been
15 following people?

16 A. No.

17 Q. Did you ask Mr. Evanko any
18 of those kinds of questions?

19 A. No, I did not.

20 Q. Mark, there is an
21 allegation, if you give me just a
22 second, I would like to find the
23 paragraph.

24 A. Uh-huh (yes).

25 Q. Let me read this paragraph

1 to you. It's paragraph 33 in the
2 amended Complaint. It reads as
3 follows --- it's very brief, one
4 sentence allegation. Subsequent to
5 learning about the FBI
6 investigation, Colonel Evanko sought
7 the personal and official approval
8 of the Defendant, Mark Campbell, to
9 begin an investigation into Captain
10 Ober. Campbell was an assistant to
11 the Pennsylvania Governor's chief of
12 staff. Let me correct that. At the
13 time in May of 1999, precisely what
14 was your position?

15 A. I was the Governor's
16 deputy chief of staff.

17 Q. Who was chief of staff?

18 A. Mark Holman (phonetic).

19 Q. Mark Holman was. Let's go
20 back to the first sentence and get
21 that out of the way, and then go
22 on.

23 A. Sure.

24 Q. Is it fair to say that you
25 deny that Mr. Evanko sought any

1 personal or official approval to
2 begin an investigation into Captain
3 Ober?

4 A. Yes, sir.

5 Q. Now, you do not deny that
6 Mr. Evanko mentioned during this
7 discussion that he was going to look
8 into or investigate how his
9 department handled the FBI probe; is
10 that correct?

11 A. Yes, sir.

12 Q. Mark, why would Mr. Evanko
13 call you and discuss that with you?

14 A. I believe that the Colonel
15 felt that given that there was an
16 alleged FBI investigation or closed
17 ---.

18 Q. All right. Just one
19 second. Let me go back and ask the
20 question. We can redo that.
21 Incidentally, it is about a 45
22 minute mark.

23 ATTORNEY BAILEY:

24 Cindy, please keep me
25 apprised of the time when

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1 you have to go. Okay.

2 ATTORNEY GUIDO:

3 We're good on time.

4 I don't really need to

5 leave until close to

6 5:00.

7 ATTORNEY BAILEY:

8 I think we're fine.

9 BY ATTORNEY BAILEY:

10 Q. You're being very
11 responsive. And I appreciate that,
12 Mr. Campbell.

13 A. Sure.

14 Q. And my question was what
15 I'm looking for is why Mr. Evanko
16 --- now, you're deputy --- you are
17 the assistant, I'm sorry, to Mr.
18 Holman. Mr. Holman was the chief of
19 staff. Your title was deputy chief
20 of staff. Why did Mr. Evanko ---
21 why would he call you with this?

22 A. Well, I'm not sure. There
23 is two different ways to answer your
24 question. If you are asking me in
25 terms of my job, why me versus why

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1 did the Colonel call me, at the time
2 ---.

3 Q. Mark, let me do it this
4 way.

5 A. Sure.

6 Q. It really is an important
7 question. Let me tell you where I'm
8 going from. I'm trying to learn
9 whether there were personal,
10 political, official, custom practice
11 and usage, a normal way of doing
12 business. Sometimes I've been in
13 situations, all of us have, you're a
14 staff worker in politics, you
15 develop a contact in an office, the
16 essence of politics is the flow of
17 information, maybe he calls you
18 because he likes you or he develops
19 a relationship. This is the way I
20 get access. I don't know. I want
21 you to explain for us, to the best
22 of your knowledge, why Mr. Evanko
23 would call and talk to you about
24 this?

25 A. Sure. Among my

1 responsibilities as the Governor's
2 deputy chief of staff was to serve
3 as a liaison to several of the
4 Governor's cabinet agencies,
5 including the Pennsylvania State
6 Police. So I was Colonel Evanko's
7 point of contact within the
8 Governor's office as the deputy
9 chief of staff. And I believe that
10 the Colonel had reached out to me to
11 convey this information to me
12 because there were allegations
13 involving the possible involvement
14 of the Governor's office that were a
15 part of the investigation.

16 Q. Do you know why he
17 wouldn't simply call the FBI and
18 say, geez, can you tell me about
19 this, you know, I want to see if I
20 have some bad guys out there in my
21 outfit or something?

22 A. I don't --- I can't
23 respond to what the Colonel either
24 did or didn't do or why he would
25 have done or taken any particular

1 action.

2 Q. All right. But you didn't
3 make an inquiry of the FBI or
4 anything like that?

5 A. No, sir.

6 Q. Do you know whether he
7 did?

8 A. I don't know.

9 Q. Mark, prior to when the
10 Complaint in this matter was filed,
11 is there any information known to
12 you which would shed light on Mr.
13 Evanko's motivations for telling you
14 that he was going to begin
15 investigating his own agency people
16 to find out what happened in
17 handling the FBI probe?

18 A. None that I'm aware of.

19 Q. Do you have a recollection
20 of him indicating who he was going
21 to --- I understand there is no
22 specific recollection of Mr. Ober,
23 although the name is apparently
24 familiar to you, that's my
25 observation. Your observations,

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1 your recollection is what counts.
2 Aside from Mr. Ober, do you have a
3 recollection of him indicating any
4 names, bureaus, sub departments,
5 parts of his organization he was
6 going to check into?

7 A. No, he didn't indicate
8 anything like that to me.

9 Q. Was anyone else in on that
10 conversation that you recollect?

11 A. The conversation with the
12 Colonel?

13 Q. Yes, sir.

14 A. No, not that I'm aware of.

15 Q. And you have indicated
16 that --- well, let me put it this
17 way. Was there anything in Colonel
18 Evanko's words, phraseology or
19 attitude which indicated to you that
20 he sought any kind of ratification
21 or approval from you to look into
22 this matter?

23 A. No.

24 Q. Did he make any comments
25 about it being bad politics?

1 A. No.

2 Q. Did he mention anything
3 about any state representatives who
4 may have been looked at?

5 A. No.

6 Q. Did he mention any names
7 of anyone who may have been looked
8 at? I don't mean for his
9 investigation. I mean in the FBI
10 investigation.

11 A. No.

12 Q. Well, you had indicated
13 the Lieutenant Governor's office?

14 A. No. You had mentioned ---
15 I don't recall indicating Lieutenant
16 Governor's office. It was clearly
17 understood by me that the focus of
18 the FBI investigation --- or the
19 allegation in the FBI allegation
20 involved the Governor's office, not
21 the Lieutenant Governor's office.

22 Q. So you didn't mention the
23 Lieutenant Governor's office. Your
24 recollection is that was my ---?

25 A. Yes.

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1 Q. I may have. I will take
2 your word for it at this point. But
3 I had thought that you had indicated
4 the Lieutenant Governor's office. I
5 don't know. So I apologize. I
6 stand corrected. Now, the --- your
7 responses to certain of my questions
8 indicates that subsequent to that
9 discussion you learned more
10 substantively about what the FBI
11 probe concerned. Where did you
12 learn that?

13 A. I believe ---.

14 ATTORNEY GUIDO:

15 I'm going to object
16 to discussions that we had
17 with Counsel.

18 A. That's where it was,
19 right.

20 BY ATTORNEY BAILEY:

21 Q. Well, okay. First of all,
22 that's not for Counsel to say. It's
23 for you to say that they occurred
24 with Counsel, if they did. In other
25 words, if your attorney informed you

1 of those things.

2 A. Uh-huh (yes).

3 Q. They may or may not be.

4 But let's assume for the sake of it

5 --- and I will certainly waive any

6 objection to their being

7 privileged. If it's fact

8 information provided to you as a

9 source, you do have to tell us

10 that. But I'm not interested in the

11 conversation --- substantive

12 conversation with Counsel. It's

13 legal advice is a different matter.

14 But where you learned it from is

15 important. So if --- aside from

16 Counsel, okay, where did you learn

17 about the --- if, indeed, you did

18 from any other source, the substance

19 of what the FBI probe was about?

20 A. I'm not sure how I -- the
21 way in which I learned about the sum

22 and substance of the FBI allegation

23 was, I believe, in a session that

24 involved Counsel, where ---.

25 Q. Again, I really don't have

1 A. No, not that I can recall.

2 Q. In other words, it would
3 have been your lawyers?

4 A. I believe so.

5 Q. So when Mr. Evanko called
6 you, he didn't say the probe
7 indicates there is nothing wrong in
8 the Governor's office or high up in
9 the state police, although there is
10 a state policeman that is going to
11 be charged?

12 A. No, I don't believe he
13 did.

14 Q. Never even brought that to
15 your attention?

16 A. Not that I recall.

17 Q. How many --- let's see.
18 From 1995 on, you were the contact
19 person for Mr. Evanko?

20 A. Through the end of 2000,
21 yes.

22 Q. To the end of 2000. And
23 then who did it go to then?

24 A. Lisa Baker, the Governor's
25 deputy chief of staff --- well,

1 actually Duncan Campbell, who was
2 the Governor's deputy chief of staff
3 for a short period of time. And
4 then Lisa Baker.

5 Q. Have you ever discussed
6 this litigation with Lisa Baker?

7 A. No, I did not.

8 Q. Did she ever indicate that
9 she discussed it with Mr. Evanko?

10 A. No.

11 Q. Did she ever indicate that
12 she discussed Mr. Ober with Mr.
13 Evanko?

14 A. No, she has not.

15 Q. Did she ever indicate that
16 she discussed Mr. Hikus with Mr.
17 Evanko?

18 A. No.

19 Q. The other gentleman,
20 Duncan Campbell?

21 A. Duncan Campbell.

22 Q. Mr. Duncan Campbell, have
23 you ever discussed Mr. Evanko's
24 handling of the FBI matter with Mr.
25 Duncan Campbell?

1 A. No, I did not.

2 Q. Has Mr. Duncan Campbell
3 ever mentioned any --- discussed Mr.
4 Ober with you?

5 A. No, he has not.

6 Q. Has he ever discussed Mr.
7 Hikus with you?

8 A. No, he has not.

9 Q. Have you ever read ---
10 doesn't Mr. Evanko still send his
11 reports or whatever?

12 A. Yes, he does.

13 Q. Do you ever read them? Do
14 you still read them?

15 A. Unfortunately, I don't.

16 Q. I don't mean to put you on
17 the spot there, Mark. Do you ever
18 read them?

19 A. No, I don't.

20 Q. So it was rare that Mr.
21 Evanko would call up and talk about
22 an internal matter and about someone
23 under him in the staff in the
24 context of investigating state
25 police activities then; wasn't it?

1 A. Colonel and I talked with,
2 you know, some regularity concerning
3 a whole host of issues involving the
4 state police. So it was not rare
5 for him to talk to me about a matter
6 involving the state police. As I
7 indicated earlier, I don't think
8 that it was --- I did not find it
9 surprising, given the allegation
10 involving the Governor's office,
11 that he raised this issue with me.
12 I do not recall him contacting me on
13 any other matter involving an
14 internal investigation or an FBI
15 investigation.

16 Q. So in five years of
17 talking with Mr. Evanko, you don't
18 have a recollection of any other
19 single instance where he talked
20 about investigating his own staff
21 over a problem dealing with an
22 external investigation?

23 A. Not that I can recall.
24 But again, that doesn't ---.

25 Q. Doesn't mean it didn't

1 happen?

2 A. No, no. Not that I can
3 recall. But again, I guess, I
4 certainly viewed this allegation of
5 the FBI investigation as unique
6 given the alleged involvement of the
7 Governor's office. So in my mind
8 that was a significant difference.

9 Q. No. I understand that,
10 you know, quite frankly if Mr.
11 Evanko had not told you there was an
12 investigation in the Governor's
13 office, thank God it was closed, and
14 closed in a positive mode, I'm not
15 suggesting that that is not
16 something that should be brought to
17 your attention. I'm not talking
18 about that. I'm talking about him
19 going on and telling you that ---
20 apparently there was no follow-up on
21 that. But going on and telling you
22 that there was an investigation in
23 his own staff about how it was
24 handled. At the same time he was
25 telling you that Mr. Hikus knew, but

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1 I didn't. Do you think he expected
2 you to be angry at Mr. Hikus?

3 A. I don't know what he
4 expected.

5 Q. But you weren't?

6 A. I was not.

7 Q. You were not. Did you
8 feel he was inviting or fishing for
9 a response on Mr. Hikus?

10 A. No, I did not.

11 Q. So as you sit here to this
12 very day, you don't know the
13 significance --- I'm not saying you
14 don't have your suspicions. We're
15 not asking about that. We might.
16 But why he mentioned Mr. Hikus, you
17 don't ---?

18 A. My recollection was simply
19 that there was a brief discussion as
20 to how the information had been
21 handled internally by the state
22 police. And I think at that time he
23 indicated to me that it had been
24 brought to Colonel Hikus' attention.

25 Q. Well, did you ask him any

1 questions at all or did you just
2 listen during this thing?

3 A. No, I just listened.

4 Q. Has Mr. Evanko ever
5 discussed Mr. Coury with you?

6 A. I mean, have we discussed
7 Coury, sure.

8 Q. Not things that Mr. Coury
9 was doing --- when I say discuss Mr.
10 Coury with you, I mean in terms of a
11 personal activity or even some
12 official activity relating to a
13 personnel matter?

14 A. No, not that I recollect.

15 Q. How about any other staff
16 members?

17 A. No, I don't recall any.

18 Q. But he did discuss Mr.
19 Hikus with you, about this knowledge
20 of this FBI claim?

21 A. He did mention, yes.

22 Q. Now, did you come away
23 from that discussion with the
24 impression that he was going to
25 investigate Mr. Hikus' role in the

1 --- Mr. Hikus' role in having
2 knowledge of the FBI probe?

3 A. I came away with the
4 impression that he was going to
5 investigate how his agency overall
6 handled its interaction with the FBI
7 regarding this investigation.

8 Q. Let me step out for just a
9 moment. We're going to leave the
10 video and everything run because of
11 the time factors, to see if I have
12 any additional questions.

13 A. Okay.

14 ATTORNEY BAILEY:

15 Again, please bear in
16 mind that the machine is
17 still on. Just wait for a
18 second there.

19 SHORT BREAK TAKEN.

20 ATTORNEY BAILEY:

21 Tape recorder is
22 still running. Let me
23 ---.

24 VIDEOGRAPHER:

25 I haven't changed

1 anything.

2 ATTORNEY BAILEY:

3 Well, then let's just
4 finish up if you haven't
5 done that. We will close
6 it down, unless opposing
7 Counsel --- I can't
8 conceive of you having any
9 questions, but I don't
10 have any additional
11 questions. Mark, I would
12 like to thank you very
13 much for your
14 participation here today.
15 Appreciate it. Thank you
16 three. The deposition is
17 concluded.

18 VIDEOGRAPHER:

19 It's 1533. And I'm
20 now going to shut off the
21 cameras.

22 * * * * *

23 DEPOSITION CONCLUDED AT 3:33 P.M.

24 * * * * *

1
2
3 COMMONWEALTH OF PENNSYLVANIA) SS:
4)
5 COMMISSIONER OF DEEDS)

6 CERTIFICATE

7 I, Nicole Susan Montagano, Commissioner of Deeds for the
8 Commonwealth of Pennsylvania, do hereby certify:
9

10 That the witness was hereby first duly sworn to testify to the truth, the
11 whole truth, and nothing but the truth; that the foregoing deposition was taken
12 at the time and place stated herein; and that the said deposition was taken in
13 Stenotype by me and reduced to typewriting, and constitutes a true and correct
14 record of the testimony given by the witness.
15

16 I further certify that the reading and signing of said deposition
17 were ~~(not)~~ waived by counsel for the respective parties and by the witness.
18

19 I further certify that I am not a relative, employee or attorney of any of
20 the parties, nor a relative or employee of counsel, and that I am in no way
21 interested directly or indirectly in this action.
22

23 IN WITNESS WHEREOF, I have hereunto set my hand and stamp this

24 day of October 26, 2001

25
NICOLE SUSAN MONTAGANO
Commissioner Of Deeds
Commonwealth of Pennsylvania
My Commission Expires Dec 3, 2004

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1 an interest to go there because I
2 don't want to argue about it. It
3 doesn't matter to me. Aside from
4 discussions with Counsel or
5 information provided by Counsel,
6 what other sources?

7 A. I don't believe there were
8 any.

9 Q. Mark, Mr. Evanko called
10 you up, told you about this thing.
11 And you never --- it raised no flags
12 with you as a political operative,
13 something incidentally, which I
14 admire in a society. I do. It's
15 not a negative thing to me.

16 A. Right.

17 Q. We need politicians. And
18 quite frankly, a country has to run
19 itself politically. I accept that.
20 And I view it as a positive thing.
21 But what --- where I'm going with
22 this question is really quite
23 simple, you know. Pennsylvania
24 State Police Commissioner calls me
25 up and he says, I'm Mark Campbell.

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1 And calls me up and says the FBI did
2 a probe. And, you know, I just
3 learned about it in effect or I
4 found out about it or whatever and
5 it's closed and, you know. But you
6 don't have any follow-up questions
7 about what happened, what the source
8 of this could be? Because you know
9 it's just good politics to find out
10 what's --- you know, this is a
11 potentially explosive public
12 problem, if somebody makes a false
13 allegation, for example, if it's
14 something that comes from a
15 political opponent, potential
16 political opponent or somebody has
17 got an ax to grind. I mean, I think
18 it is legitimate to try to find out
19 the background. I would want to
20 know. I'd certainly want to know.
21 I'm just curious why you didn't ---
22 you know, what's going on here?

23 A. Maybe I'm a more casual
24 political staffer than what ---.

25 Q. No, you are probably a

1 better one.

2 A. No. As I indicated
3 earlier, my concern --- and to use
4 your word, my political concern was
5 how this might involve the
6 Governor. Ones I was assured that
7 it did not involve the Governor or
8 the Governor's office, my concerns
9 ceased to exist. And in my mind,
10 then became a matter for Colonel
11 Evanko to deal with
12 administratively.

13 Q. Let me go there next.
14 Because you had indicated earlier
15 that, you know, you viewed --- is it
16 fair to say that your reaction and
17 your feeling was, our folks aren't
18 in this. And I'm sure you knew that
19 Governor Ridge wouldn't be any part
20 of it. But the point was our office
21 is not involved in this. That's
22 Evanko's problem? Not saying you
23 felt that calloused about it, but
24 ---.

25 A. That cavalier about it.

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1 But I was not surprised that neither
2 --- neither anyone from the
3 Governor's office or from the
4 Commissioner's office was involved.
5 And as I said, having been assured
6 that that, in fact, was the case, I
7 really ceased to have any interest
8 in the matter going forward.

9 Q. All of that out of the way
10 now that we have covered that
11 ground. Did it occur to you at the
12 time --- that there were any
13 questions in your mind, why is Mr.
14 Evanko telling me about
15 investigating his own folks?

16 A. I just think that he
17 indicated to me and was in the same
18 conversation where he informed me
19 that the investigation had been
20 concluded, he then went on to inform
21 me that he was going to conduct an
22 internal review of his agency's
23 involvement and actions in the
24 matter. So it was nothing more than
25 that.

1 Q. But you knew quite clearly
2 that that was a check into the
3 substance of who out there may have
4 sold a job, but was into how we
5 handled the investigation. That was
6 pretty clear to you?

7 A. It was, but it was not a
8 matter that concerned me.

9 Q. All right. Now, after
10 that discussion with Mr. Evanko in
11 May of 1999 --- by the way, about
12 how long, if you recollect, did that
13 discussion take place?

14 A. It was no more than a few
15 minutes, less than five minutes.

16 Q. Mark, were there any other
17 things that you remember of
18 substance discussed during that
19 conversation?

20 A. There may have been, but I
21 do not recall them at this time.

22 Q. Is it fair to say that
23 your best recollection is that the
24 purpose of Mr. Evanko's call was
25 essentially about this closed FBI

1 probe?

2 A. Yes, sir.

3 Q. His voice, was there an
4 angry tone or edge in his voice?

5 A. I don't recall that there
6 was.

7 Q. Do you remember that he
8 was upset in any way, that expressed
9 itself through the tone of his voice
10 or his verbiage or voice patterns or
11 anything of that sort?

12 A. No, I do not recall.

13 Q. Did he indicate that he
14 might get back to you?

15 A. No, he did not, not that I
16 recall.

17 Q. Did you ask him to get
18 back to you?

19 A. No, I did not.

20 Q. Do you know of anyone in
21 the administration --- by that, I
22 mean the Governor's office over here
23 as opposed to someone in the state
24 police, who asked Mr. Evanko to do
25 any kind of report or

1 recommendation?

2 A. I'm not aware of anything
3 like that, no.

4 Q. Have you ever had any
5 discussions with any FBI personnel
6 about the probe?

7 A. No, I have not.

8 Q. Have you ever seen FBI
9 302s or FBI's reports or information
10 about the probe?

11 A. No, I have not.

12 Q. Aside from your lawyers,
13 have you ever received any
14 information about where the probe
15 went or what occurred?

16 A. No, I have not.

17 Q. Is there any policy in the
18 administration about how internal
19 investigations are to be conducted
20 into personnel activities?

21 A. Not that I'm aware of. I
22 can't --- I don't know how --- for
23 instance, the administration handles
24 investigations of state employees.
25 But I'm not aware of any of those

1 policies.

2 Q. Aside from Colonel Evanko,
3 did you ever discuss the FBI
4 investigation with anyone else?

5 A. I believe ---.

6 Q. Your lawyers are excluded
7 from this.

8 A. Sure. I believe that
9 after I had been informed by the
10 Colonel, I shared the information
11 with Mark Holman, the Governor's
12 chief of staff, with Tim Reeds, who
13 was the Governor's director of
14 communications, and with Paul DeFino
15 (phonetic), the Governor's general
16 Counsel.

17 Q. Do you know whether any of
18 those folks had any discussions with
19 Mr. Evanko about the matter?

20 A. I don't know.

21 Q. Did you ever ask them?

22 A. No, I did not.

23 Q. Did they ever tell you?

24 A. Not that I remember, no.

25 Q. Did Mr. --- do you have

1 any subsequent --- I know I have
2 asked you if you had any subsequent
3 conversations with Mr. Evanko after
4 this Complaint was filed. Between
5 the period of time that Mr. Evanko
6 made this phone call to you and
7 before the Complaint was filed, did
8 you have any other conversations
9 with Mr. Evanko about the FBI probe?

10 A. The Colonel was present
11 for the one meeting that I referred
12 to earlier, I believe, where ---.

13 Q. Not with the attorneys.

14 A. No. Other than that ---.

15 Q. Let me go back and make
16 sure it's understood. Before this
17 Complaint was filed and after ---
18 you know, the interval between when
19 Mr. Evanko first called you and when
20 you first learned about the FBI
21 probe and this Complaint was filed,
22 did you have any conversations with
23 Mr. Evanko about the probe?

24 A. No, I don't recall any.

25 Q. I want you to go back over

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1 your awareness of Mr. Ober's name.
2 I want you to go back to prior to
3 the Complaint. Prior to the
4 Complaint, do you have any awareness
5 of Mr. Ober's name?

6 A. At some point, as I
7 indicated earlier, either in that
8 initial conversation with the
9 Colonel or at the time during which
10 we met with Counsel, I become aware
11 of Mr. Ober's name.

12 Q. When was the timing of Mr.
13 Evanko's call to you?

14 A. Timing as in time of day?

15 Q. You said it was May of
16 1999; right?

17 A. Well, that's what --- I
18 believe that's what was the date
19 that was in the Complaint. I didn't
20 recall specifically when it was.

21 Q. Well, May of ---
22 incidentally, May 12th of 1999 is
23 when the Complaint alleges that the
24 Plaintiff informed Mr. Evanko about
25 the probe?

1 A. Uh-huh (yes).

2 Q. Do you keep any kind of
3 log of telephone calls?

4 A. No, I do not.

5 Q. Do you know if Mr. Evanko
6 said when he learned about this FBI
7 probe? Do you remember when he
8 called you, did he say when he
9 learned about it, I learned today, I
10 learned last week, I learned last
11 month?

12 A. I don't recall
13 specifically. I just recall
14 generally that it was fairly
15 recent. I don't know.

16 Q. You had that feeling it
17 was fairly recent?

18 A. Uh-huh (yes).

19 Q. Did he indicate whether he
20 met with any of his staff about it?

21 A. He did not indicate, that
22 I recall.

23 Q. At any time were any kind
24 of disciplinary actions against
25 Captain Ober or anyone else

1 discussed in the context of the FBI
2 probe at any time?

3 A. Not with me, no.

4 Q. Do you know if they were
5 discussed with anyone else in your
6 staff, the Governor's staff?

7 A. Not that I'm aware of.

8 Q. Have you ever seen the
9 results of the FBI investigation?

10 A. I don't believe I have,
11 no.

12 Q. Have you ever, aside from
13 asking your attorneys, maybe if you
14 have, I don't know, have you ever
15 asked anyone to find out the results
16 of the FBI probe, the allegations of
17 the staff?

18 A. No, never asked.

19 Q. I had asked you before
20 about memos and that sort of thing.
21 Do you have any knowledge of any
22 status reports?

23 A. No, I do not.

24 Q. Regarding this matter?

25 A. No.

1 Q. Do you remember early on I
2 asked you some questions about
3 Lieutenant Colonel Hikus?

4 A. Uh-huh (yes).

5 Q. Did you ever have any
6 discussions with Mr. Evanko in the
7 context of the FBI probe where
8 Lieutenant Colonel Hikus was
9 discussed? Do you understand that
10 question?

11 A. What I do recollect, and
12 it may be from the Complaint, is
13 that I believe the allegation or the
14 chain of events was that at some
15 point Mr. Ober reached out to then
16 Lieutenant Colonel Hikus to inform
17 him of the FBI investigation.

18 Q. Well, excluding the
19 Complaint. See, my question was ---
20 my question was actually a little
21 different than that response would
22 indicate. My question was do you
23 have recollection of any discussions
24 with Mr. Evanko, Mr. Hikus' name
25 coming up in a context of any

1 discussion about the FBI probe?

2 A. I believe that --- I can't
3 recall where during the series of
4 events that Colonel Evanko did
5 indicate that he was aware that
6 Colonel Hikus had been made aware of
7 the FBI investigation.

8 Q. Why would he --- I'm
9 sorry. You had information. I
10 apologize.

11 A. No. To answer the
12 question I think you were going to
13 ask. I think only in terms of
14 trying to provide me with some
15 general overview of how the
16 investigation had unfolded.

17 Q. What was the significance
18 of saying Hikus knew and I didn't?

19 A. You would have to ask the
20 Colonel that. I don't know. He
21 simply shared that with me at some
22 point.

23 Q. Do you think he was trying
24 to indicate to you that Hikus had
25 stabbed you in the back?

1 A. You would have to ask the
2 Colonel. I don't know.

3 Q. Well, no. You may rest
4 assured I will ask the Colonel. But
5 what I'm asking is your impression,
6 you know, you lived through the
7 conversations and I was not privy to
8 them. And what I'm asking very,
9 very, simple. And I'm trying to
10 ascertain why Mr. Evanko would
11 mention, you know, Hikus knew, I
12 didn't. Did you attach any
13 significance to Mr. Evanko
14 indicating that?

15 A. No, I did not.

16 Q. Is there a political staff
17 --- political differences between
18 Mr. Hikus and Mr. Evanko?

19 A. Not that I'm aware of.

20 Q. Does Mr. Hikus enjoy the
21 same political supporters within the
22 administration that Mr. Evanko does
23 or did?

24 A. As far as I'm concerned.

25 Q. How about as far as other

1 folks are concerned about you,
2 Mark? How about not you. I
3 understand how you feel, the same
4 way towards both of them. How about
5 other folks? Do they enjoy support
6 from other people in different ways?

7 A. I've never heard anyone
8 indicate that there is any lack of
9 respect or support for either one of
10 them.

11 Q. Does Lieutenant Colonel
12 Hikus have a contact person over
13 here in the administration?

14 A. Well, currently they would
15 deal with the Governor's deputy
16 chief of staff, who is now Lisa
17 Baker. But at the time, I would
18 have been the primary point of
19 contact for the Commissioner and his
20 deputies.

21 Q. Based upon your --- how
22 long have you --- what is your
23 background before you became
24 deputy? What was your background
25 before you became deputy?

81

1 A. I worked for Congressman
2 Tom Ridge for 12 years before that.

3 Q. And what is your
4 educational background?

5 A. I have a Bachelor of arts
6 from Allegheny College,
7 Pennsylvania.

8 Q. Do you have knowledge of
9 any transgression against any law or
10 regulation that was committed by
11 Captain Ober to any of this?

12 A. No, I do not.

13 Q. Has anyone ever brought to
14 your attention or indicated to you
15 in any way that they believe that
16 Captain Ober broke a law, violated a
17 regulation or acted in some way that
18 was inconsistent with the letter and
19 spirit of the law or State Police
20 regulations?

21 A. Not that I'm aware of.

22 Q. Did Mr. Evanko ever get
23 back to you and say that he felt Mr.
24 Hikus had done something wrong?

25 A. No, not that I can recall.

1 Q. Was there anything unusual
2 about Colonel Evanko, if he raised
3 Mr. Ober's name --- we know that he
4 raised Mr. Hikus' name. Is there
5 anything unusual about him raising
6 their names in the context of
7 checking into a probe which had
8 successfully indicated that was no
9 wrongdoing?

10 A. Not from my perspective.

11 Q. Did he indicate whether or
12 not there were charges against a
13 Pennsylvania State Police Officer
14 that would be brought as a result of
15 the probe, one officer, one trooper?

16 A. I don't recall that.

17 Q. Did you ever learn that?
18 Did that ever --- is that something
19 that came to your attention at some
20 point?

21 A. It might have been
22 something that was brought to my
23 attention subsequently.

24 Q. Not by your lawyers. By
25 somebody else, anybody else?

U.S. DISTRICT COURT
FOR THE MIDDLE DISTRICT
OF PENNSYLVANIA

* * * * *

DARRELL G. OBER,	*	
Plaintiff	*	Case No.
vs.	*	1CV-01-0084
PAUL EVANKO,	*	
MARK CAMPBELL,	*	
THOMAS COURY,	*	
JOSEPH WESTCOTT and	*	
HAWTHORNE CONLEY,	*	
Defendants	*	

* * * * *

VIDEOTAPED DEPOSITION OF
HAWTHORNE N. CONLEY
March 12, 2002

ORIGINAL

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is prohibited without authorization
by the certifying agency.

1 VIDEOTAPED

2 DEPOSITION

3 OF

4 HAWTHORNE N. CONLEY, taken on behalf
5 of the Plaintiff herein, pursuant to
6 the Rules of Civil Procedure, taken
7 before me, the undersigned, Vivian
8 Gratz, a Court Reporter and
9 Commissioner of Deeds in and for the
10 Commonwealth of Pennsylvania, at the
11 offices of Strategic Development
12 Technical Services Center, 2629
13 Market Place, Harrisburg,
14 Pennsylvania, on Tuesday, March 12,
15 2002, beginning at 9:57 a.m.

A P P E A R A N C E S

DON BAILEY, ESQUIRE

4311 North 6th Street

Harrisburg, PA 17110

COUNSEL FOR PLAINTIFF

BARBARA L. CHRISTIE, ESQUIRE

Chief Counsel

Pennsylvania State Police

1800 Elmerton Avenue

Harrisburg, PA 17110

COUNSEL FOR DEFENDANTS

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P R O C E E D I N G S

HAWTHORNE N. CONLEY, HAVING FIRST
BEEN DULY SWORN, TESTIFIED AS
FOLLOWS:

ATTORNEY BAILEY:

Ladies and gentlemen,
let everyone in the room be
informed, please, that there
is recording equipment
running. There are
microphones. And Counsel, in
particular, be advised,
there's a microphone right
here between your client and
I. And be mindful of that
fact in case you want to make
comments or stray comments,
they might get picked up.
Crystal, would you begin,
please?

VIDEOGRAPHER:

Good morning, ladies
and gentlemen. Please be

1 advised the video and audio is
2 in operation. My name is
3 Crystal M. Lyde, L-Y-D-E. My
4 address is 4310 Hillsdale
5 Road, Harrisburg, Pennsylvania
6 17112. I've been contracted
7 out by P.R. Video to be the
8 operator for this deposition.
9 The case is for the United
10 States District Court for the
11 Middle District of
12 Pennsylvania. The caption is
13 Darrell G. Ober versus Paul
14 Evanko, Mark Campbell, Thomas
15 Coury, Joseph Westcott and
16 Hawthorne Conley. The Docket
17 number is 1CV-01-0084. The
18 date is March 12th, 2002. The
19 deposition is being held at
20 the Pennsylvania State Tech
21 Center, Market Place,
22 Harrisburg, Pennsylvania. The
23 video deposition is being
24 taken on behalf of the
25 Plaintiff, Darrell Ober. The

1 witness' name is Hawthorne
2 Conley. The time now is 9:58
3 a.m. Could you raise your
4 right hand for me, please?
5 Please state your name for the
6 record and spell it, please

7 MR. CONLEY:

8 Hawthorne N. Conley,
9 H-A-W-T-H-O-R-N-E, last name
10 is C-O-N-L-E-Y.

11 HAWTHORNE N. CONLEY, CALLED AND SWORN
12 TO TESTIFY

13 VIDEOGRAPHER:

14 Thank you. Mr. Bailey,
15 we'll now check around the
16 room, please.

17 ATTORNEY BAILEY:

18 Yes, ma'am. My name is
19 Don Bailey. I'm attorney for
20 the Plaintiff, Darrell G.
21 Ober. If we could just have
22 Counsel identify herself for
23 the record, giving her address
24 and phone number.

25 ATTORNEY CHRISTIE:

10

1 Yes. Barbara Christie,
2 Chief Counsel of Pennsylvania
3 State Police. My office
4 address is 1800 Elmerton
5 Avenue, Harrisburg, PA 17110.
6 Office number 717-783-5568.

7 ATTORNEY BAILEY:

8 Thank you very much.
9 Just a few housekeeping chores
10 --- did you swear him? Okay.
11 Just a few housekeeping chores
12 before we begin. We'd like to
13 renew our objection to the
14 presence of Captain Brown. He
15 is a fact witness in this
16 case. It's been represented
17 to us that he's an
18 investigator for the attorneys
19 or something of that sort.
20 Also is with BPR. Anyways,
21 it's noted for the record and
22 Counsel, I understand you do
23 not concur?

24 ATTORNEY CHRISTIE:

25 That is correct. We

1 renew our response made
2 earlier on the record in the
3 previous deposition at which
4 Captain Brown attended.

5 ATTORNEY BAILEY:

6 Right. And let the
7 record also show that there is
8 a young lady here who's taking
9 a stenographic record here.

10 EXAMINATION

11 BY ATTORNEY BAILEY:

12 Q. Colonel --- can I refer to you
13 as Colonel?

14 A. Yes, sir.

15 Q. And from time to time ---
16 you're a Lieutenant Colonel; is that
17 correct?

18 A. That's correct.

19 Q. Now, from time to time,
20 forgive me if I make an error. Most
21 of the studying I've done, your
22 Major, you know, in the time frames
23 and different things we're doing.

24 A. Understood.

25 Q. So I apologize if at some

1 point I just, you know --- it won't
2 be intentional, in other words, if I
3 refer to you by Major, but I'll teach
4 myself into the deposition to make
5 sure it's Colonel. And no disrespect
6 will be meant, I assure you of that,
7 sir. Okay. Before we begin that,
8 just a few instructions.
9 Particularly because there is a
10 stenographic record being taken, sir,
11 it's important that we allow a little
12 time to pass between question and
13 answer. I doubt very much, to the
14 extent that I do, that you would
15 violate that problem or cause a
16 problem that way, but I'm certainly
17 capable. And if I do, if I, in other
18 words, interrupt inadvertently or
19 maybe tag on a question or interrupt
20 an answer of yours with another
21 question, please make sure you
22 correct me, and stop me and that you
23 answer fully and completely the
24 question that's on the table. Okay?
25 A. Understood.

1 Q. All right, sir. Now, from
2 time to time, because I do one thing
3 a little differently than most
4 lawyers, I invite your questioning of
5 me. It's not that I'm encouraging
6 it, it's that I want you to feel free
7 to ask me any questions that you may
8 have about a question that I ask or
9 where I'm going with questions. We
10 want to get a full and complete fact
11 record. We're not interested in
12 tricking anyone or any kind of
13 misleading information. So you make
14 sure that at any time, if you have
15 even a curiosity about where I'm
16 going with a particular line of
17 questions, that you feel free to ask
18 me. If at any time during the course
19 of the deposition you want to change
20 an answer, you're free to do that,
21 like I remembered this or remembered
22 that, that sort of thing. The last
23 thing would be a housekeeping chore,
24 again, with Counsel, and that is the
25 usual stipulations, I assume, are

1 acceptable, i.e. that objections
2 accepted to the form of a question be
3 reserved until time of trial. Is
4 that acceptable?

5 ATTORNEY CHRISTIE:

6 That's correct, yes, so
7 it's acceptable.

8 ATTORNEY BAILEY:

9 Okay. Thank you very
10 much.

11 BY ATTORNEY BAILEY:

12 Q. Colonel, that being said, are
13 you ready to begin?

14 A. Yes, sir.

15 Q. All right. Do you have any
16 questions at all for me before we
17 start?

18 A. I do not.

19 Q. Colonel, what duties, briefly
20 stated --- what duties do you perform
21 for the Pennsylvania State Police
22 today?

23 A. I'm the Deputy Commissioner of
24 Administration. In that position I
25 have oversight of the Bureau of Human

1 Resources and Management, the Bureau
2 of Training Education, the Office of
3 Discipline, the Office of Equal
4 Employment Opportunity and the Bureau
5 of Professional Responsibility.

6 Q. Now, what position --- was
7 this a promotion, obviously, to this
8 position? When did it occur?

9 A. It's an appointment which
10 occurred in September 2nd the year
11 2000.

12 Q. Now, what position did you
13 hold prior to September 2nd, 2000?

14 A. Director of the Bureau of
15 Professional Responsibility.

16 Q. And, very briefly, what are
17 those duties?

18 A. That's oversight of the
19 Internal Affairs Division, as well as
20 the Systems and Process Review
21 Division.

22 Q. So it contains IAD and
23 inspections of two divisions, two
24 basic divisions?

25 A. That's correct.

1 Q. Now, when were you appointed
2 or, I guess that's the correct word.
3 When were you promoted or ordered or
4 appointed, whatever the correct
5 terminology may be, to assume the
6 duties at BPR?

7 A. I believe it was October 2nd,
8 1998, effective October 3rd, 1998.

9 Q. And where were you October
10 3rd, 1998, physically?

11 A. Pittsburgh, Pennsylvania.
12 Well, actually Monroeville,
13 Pennsylvania.

14 Q. And prior to October 2nd,
15 1998, what position did you hold with
16 the Pennsylvania State Police?

17 A. I was a Captain, Troop
18 Commander of Troop B, Washington, PA.

19 Q. Troop B includes what
20 counties?

21 A. Allegheny, Washington, parts
22 of Westmoreland, Fayette and Greene
23 County.

24 Q. Now, how long had you been
25 Troop B Commander prior to October

1 2nd, 1998?

2 A. Ten months.

3 Q. And where had you been prior
4 to that?

5 A. I was a Captain in Troop E,
6 Erie.

7 Q. Troop E, that's Erie?

8 A. Yes, sir.

9 Q. And what did you do up there?
10 What were your duties?

11 A. I was a commanding officer of
12 Troop E.

13 Q. And how long had you been at
14 Troop E before you went to Troop B?

15 A. I was in Troop E from April of
16 '96 until December of '97.

17 Q. Okay. So Troop E from April
18 of '96 to December of '97. And
19 December of '97, you went to Troop B
20 for ten months?

21 A. Let me correct that.
22 Actually, the transfer was effective
23 in January from E to B, January of
24 '98.

25 Q. Okay.

1 A. Which actually makes that
2 approximately nine months in Troop B.

3 Q. So you went to --- January of
4 '98 you go to Troop B?

5 A. That's correct.

6 Q. You're Troop B for
7 approximately nine months and you're
8 then transferred or --- were you
9 promoted at that point to Major when
10 you went up to BPR?

11 A. That's correct.

12 Q. Now, the effective date of
13 your transfer to BPR was October 3,
14 1998. What was the date of your
15 promotion? When did you go from
16 being a captain to a major?

17 A. October 3rd, 1998.

18 Q. So, coincidental, at the same
19 time that you were promoted to major,
20 you were put in charge of BPR?

21 A. That's correct.

22 Q. Well, when did you physically
23 --- where's the BPR, you know ---
24 where do you the work? I mean, where
25 do you sit down and do the work?

1 A. In October of '98, it was the
2 Departmental Headquarters, located
3 1800 Elmerton Avenue, Harrisburg, PA.

4 Q. 1890 Elmerton Avenue?

5 A. No, sir. 1800.

6 Q. Okay. Sorry. 1800 Elmerton
7 Avenue. Now, when did you actually
8 go into the office? It wasn't
9 October 3rd, was it?

10 A. No, it was not.

11 Q. When was it?

12 A. October 6th.

13 Q. And why did you delay, if
14 indeed you did, or what were the
15 reasons why you went in --- you were
16 notified --- no, strike that.

17 You had to have been notified,
18 I assume, prior to October 3, 1998
19 that you were going to be heading up
20 BPR; am I correct?

21 A. I was notified the morning of
22 October 2nd.

23 Q. The morning of October 2nd.
24 Now, who was running BPR at that
25 time?

1 A. Captain Darrell Ober.

2 Q. He was acting Bureau Director;
3 is that correct?

4 A. That's correct.

5 Q. Well, who was responsible for
6 putting him in that position?

7 A. I would ---.

8 Q. If you know. You may not
9 know.

10 A. I assume it was the
11 Commissioner.

12 Q. I would also but again
13 --- I mean, you're not certain, but
14 that's the normal --- that would be
15 the normal assumption. Now, who was
16 responsible for making you the
17 permanent director of BPR?

18 A. The Commissioner.

19 Q. That's Commissioner Evanko;
20 right?

21 A. That's correct.

22 Q. Now, why the time lag in there
23 until October 6th before you got down
24 to departmental headquarters?

25 A. October 3rd was a Saturday,

1 that was a day off. October 4th was
2 a Sunday, that was a day off.

3 October 5th, I attended a funeral of
4 my niece.

5 Q. I'm sorry.

6 A. I reported Tuesday morning.

7 Q. And Tuesday morning would've
8 been the 6th?

9 A. That's correct.

10 Q. Had you served any time BPR
11 --- strike that.

12 Had you served any time in
13 either IAD or Inspections prior to
14 going down to BPR in your career?

15 A. I did.

16 Q. Where and in what capacity?

17 A. From January 1986 until March
18 of '93, I served in the western
19 office of the Internal Affairs
20 division as both an investigator and
21 a section commander.

22 Q. As both a what?

23 A. An investigator and a section
24 commander.

25 Q. Now, let me ask you some

1 questions about that, if I might. I
2 want to ask you some questions here,
3 there's going to be a group of
4 questions that have to do with the
5 period of time 1986 to 1983. You're
6 in charge of the western office of I
7 --- I'm sorry.

8 A. It's '93.

9 Q. What did I say?

10 A. I thought you said '83.

11 Q. I'm sorry, sir. It would be
12 1986 to 1993?

13 A. Yes.

14 Q. If I made an error, thank you.
15 Thank you for correcting me. In that
16 period of time, roughly four, three,
17 seven years or so, okay? Now, the
18 western office IAD, you were
19 headquartered in Pittsburgh?

20 A. Findlay Township.

21 Q. Is that Allegheny County?

22 A. Allegheny County.

23 Q. Findlay Township is not in
24 Washington County?

25 A. No, sir.

1 Q. Allegheny County. All right,
2 sir. Now, during that period of
3 time, did you have any contact with
4 the FBI? I would assume that you
5 did, but I don't know. Do you have
6 any recollection of ever interacting
7 with the FBI during that period of
8 time?

9 A. Yes.

10 Q. And did you get to know any of
11 the people there?

12 A. Yes.

13 Q. Well, name some of the agents
14 that you knew in that seven year
15 period that you got to know, if you
16 remember, you know. You may not
17 remember, I don't know.

18 A. I don't recall.

19 Q. Did you ever meet Mr. Kush?
20 Did you know of him?

21 A. I know that name. I don't
22 recall meeting him during that period
23 of time.

24 Q. How about Mr. --- I think you
25 corrected me earlier today during the

1 informal period when you, I and your
2 attorney were talking --- Mascalus,
3 Mascalley, Mascara (phonetic)?

4 A. Mascara.

5 Q. How do you spell that?

6 A. I'm not sure.

7 Q. Well, you know the Congressman
8 out there, Frank Mascara?

9 A. I'm aware of him.

10 Q. From Washington County, did he
11 spell it the same way, do you know?

12 A. I don't believe so.

13 Q. But you don't know how to
14 spell it. Do you know him, Mascara,
15 the FBI agent? Did you ever ---?

16 A. Rick Mascara?

17 Q. Yes. You know Rick, don't
18 you?

19 A. He was a SAC, a little
20 different ---.

21 Q. He was a Special Agent in
22 Charge; right?

23 A. That's correct.

24 Q. Now, you know him, don't you?

25 A. Yes.

1 Q. I mean, you knew him?

2 A. Yes.

3 Q. That's no secret or anything
4 like that. You should know him, you
5 worked with him. How long did you
6 know Rick?

7 A. I don't know. I met him when
8 I was troop commander at Troop B,
9 Washington.

10 Q. Well, that's --- now we're
11 talking January '98. January of '98
12 you became Troop B. You're telling
13 us you didn't meet Rick between 1986
14 and 1993? I'm not suggesting you
15 did, by the way, but I'm asking that
16 you didn't meet him during that
17 period of time?

18 A. I don't recall.

19 Q. Do you know where he was
20 during that period of time?

21 A. He was stationed in
22 Pittsburgh.

23 Q. Rick was?

24 A. Yes.

25 Q. How do you know that?

1 A. Because he was a SAC in
2 Pittsburgh.

3 Q. Well, when was he the SAC in
4 Pittsburgh?

5 A. During my ten years as troop
6 commander at Washington.

7 Q. Was he SAC in Pittsburgh
8 during your tenure up in Troop E in
9 Erie?

10 A. I'm not sure.

11 Q. Okay. Well, we know that you
12 were Troop E in Erie from roughly
13 April of '96 to December of '97; is
14 that correct? Am I correct on that?
15 I may have written down the wrong
16 dates.

17 A. What dates do you have again?

18 Q. Yes, sir. I have Troop E,
19 April '96 to December of '97 and then
20 you changed that in effect on a
21 different question, on a response to
22 a different question --- you changed
23 that to January of '98 when you
24 assumed command of Troop B. Am I
25 correct, sir?

1 A. That's correct.

2 Q. All right. Let's go back now.
3 You're commander of Troop E, it's
4 April 1996, where had you been before
5 that? Had you been --- in other
6 words, what's the three years in
7 there from '93 through '96, through
8 April of '96. From March of '93
9 through April of '96, where were you
10 then?

11 A. I was stationed in Hershey,
12 PA.

13 Q. And doing what in Hershey?

14 A. I was the Emergency Operation
15 Officer for the agency.

16 Q. All right. Now, let's go back
17 to January of '86 to March of '93.
18 Do you have any recollection of
19 learning since that period of time
20 that Rick was Special Agent in Charge
21 during that period of time? You
22 don't know. You know that as of ---
23 when you assumed the commander's
24 position January in '98 of Troop B
25 that Rick was a SAC out there then,

1 Special Agent in Charge then?

2 A. There were two different SACs
3 in Pittsburgh. John O'Connor and
4 Rick Mascara, during my tenure in
5 Western Pennsylvania as troop
6 commanders in Erie and Washington. I
7 know that he changed positions, I'm
8 not sure of the time span or the time
9 line.

10 Q. Well, when is the earliest
11 that you became aware then of --- not
12 of Rick himself, but when is the
13 earliest that you became aware that
14 he was Special Agent in Charge of the
15 FBI in the Western District of
16 Pennsylvania or wherever they define
17 their office out that way?

18 A. I don't know.

19 Q. But at some point, you became
20 aware of him; right?

21 A. That's true.

22 Q. Now, when is the first time
23 you heard the word or the name
24 Trooper Stanton? When did you first
25 hear that? Now, think hard on that,

1 please. I've got a series of
2 questions about that, about him and
3 try to give some real thought to
4 that, sir.

5 A. Which Trooper Stanton are you
6 referring to?

7 Q. The gentleman that got himself
8 in a, you know, problem, apparently,
9 over this idea of purportedly selling
10 academy appointments or whatever he
11 did. That Trooper Stanton. When did
12 you first hear his name?

13 A. I'm not sure of the exact
14 date.

15 Q. Give me a rough idea, sir,
16 please.

17 A. The spring of 1999.

18 Q. Now, when is the first time
19 that you heard about the possibility
20 that somebody might be selling
21 positions, their appointments or
22 whatever it would be, to the
23 Pennsylvania State Police Academy?

24 A. That same time period, spring
25 of 1999.

1 Q. Now, Colonel, prior to the
2 spring of 1999, you had never heard
3 anything, had you, about the FBI
4 receiving information, which would
5 indicate some sort of public
6 corruption, relating to purported
7 influence, improper influence,
8 designed to get somebody an
9 appointment to the State Police
10 Academy? You never heard of anything
11 like that until the spring of 1999;
12 is that correct?

13 A. I don't recall hearing
14 anything similar to that prior to
15 1999.

16 Q. Colonel, you're not --- I
17 understand your answer. I'm not
18 impugning the integrity of your
19 answer, sir, but you're telling us
20 that you don't recall, prior to the
21 spring of 1999, hearing anything
22 about an FBI interest in Pennsylvania
23 State Police activities at all? Is
24 that fair to say?

25 A. So let me ask you where you're

1 going with this question, because
2 maybe I can answer it for you?

3 Q. Sure. Here's what I'm trying
4 to figure out. I'm trying to figure
5 out when you, as an individual,
6 Colonel Conley --- when you first
7 learned that the FBI had received
8 information or had a concern about
9 possible public corruption, political
10 corruption, that might involve the
11 State Police.

12 What I want to try to find out
13 is when you first learned about it.
14 I do have some information, I
15 believe, about when the FBI first
16 became aware of it and, you know, I
17 intend to explore. And if your
18 department hasn't done so already,
19 shame on them, but I'm going to, you
20 know, explore those folks --- when
21 this communication first occurred and
22 what happened. And your individual
23 role in this is very important. As
24 you know, you're a Defendant here and
25 I want to try to find out if, you

1 know --- when you learned about this
2 for the first time.

3 Now, your testimony so far
4 indicates to me that, if I understand
5 you, that the first time you heard
6 about this at all, anything about it
7 --- now, not just Trooper Stanton,
8 but this idea that there might be
9 some elicit activity going on
10 connected with the Academy and
11 appointments to the Academy, was the
12 spring of 1999. That's where I'm
13 going. I'm trying to learn what
14 Captain Major Colonel Conley knew
15 through this time line. That's where
16 I'm going. Does that help?

17 A. That helps.

18 Q. Can you respond, please, sir?

19 A. I had no knowledge prior to
20 the spring of 1999.

21 Q. Yes, sir. Prior to the spring
22 of 1999, you had never received any
23 information, which indicated or would
24 have indicated that our brethren over
25 there in the Federal Bureau of

1 Investigation had any information
2 about potentially improper activities
3 in the Pennsylvania State Police,
4 relating to the Academy at least; is
5 that correct?

6 A. That's correct.

7 Q. And isn't it also fair to say,
8 Major, that prior to the spring of
9 1999 and going all the way back to
10 January of 1986, you have no
11 recollection of the FBI indicating a
12 concern about political corruption
13 within the Pennsylvania State Police
14 itself? Isn't that fair to say?

15 A. I'm unaware of the FBI looking
16 at the State Police, relating to
17 corruption in appointments of cadets
18 between 1986 and 1999.

19 Q. Anything else that the FBI
20 ever indicated that they were
21 concerned about some kind of improper
22 political corruption problem that
23 might involve the Pennsylvania State
24 Police or its leadership, that you
25 can remember?

1 A. I don't recall any.

2 Q. Now, during the period of
3 time, 1986 --- January of 1986 to
4 March of 1993, do you expect you
5 would've heard something if they had
6 such an interest?

7 A. I don't know.

8 Q. Well, certainly you wouldn't
9 have heard anything about it if they
10 suspected you, would you?

11 A. I don't suspect.

12 Q. Because as a good investigator
13 and as a qualified law enforcement
14 officer, you wouldn't share with a
15 suspected target or target of an
16 investigation what you were doing,
17 would you? You wouldn't do that,
18 would you? I mean, that's rather
19 kindergartenish, I realize. I'm not
20 trying to talk down to you in that
21 question, but isn't that rather
22 basic?

23 A. Would I share my information
24 with the target of my investigation?

25 Q. Sure.

1 A. I wouldn't.

2 Q. Okay. And I'm not trying to
3 be a wise guy with that question. I
4 mean, it's just a basic question I
5 have to ask, but I think it needs to
6 be asked. Now, and by the way, I
7 want to make it very clear for this
8 record, there is absolutely --- I
9 have no, you know --- I'm not
10 implying that there was some
11 suspicion of you, okay? I want to
12 make that clear. Now, if, from the
13 period of 1986 to March of 1993 ---
14 if your recollection is correct, and
15 I realize that's looking back a few
16 years, and you were not notified of
17 anything or became aware of anything.
18 Between 1986 and the spring of 1999,
19 do you ever remember hearing any
20 rumors that there was some kind of
21 problem with handing out appointments
22 at the Academy or corruption or
23 public officials involved with that
24 kind of problem? And even a rumor,
25 do you remember hearing even a hint

1 of a rumor about it?

2 A. I don't recall.

3 Q. So, no rumors, no
4 notifications, no informal phone
5 calls, no written materials, until
6 the spring of 1999 you had no
7 knowledge of any FBI interest in
8 corruption that might involve high
9 ranking officials in the Pennsylvania
10 State Police; is that fair to say?

11 A. That's fair.

12 Q. All right, sir. Colonel, did
13 you review the Williams'
14 investigation?

15 A. What Williams' investigation?

16 Q. Well, we've been able to
17 establish that Colonel Evanko --- let
18 me describe it for you so it's clear
19 to you. I'm talking really about the
20 investigation into Captain Ober,
21 performs a major material fact issue
22 in this complaint here. And what I
23 want to do now --- just let me give
24 you a little description of where I'm
25 going so you know where I'm going. I

1 want to ask you questions about that
2 investigation into Captain Ober, you
3 know.

4 I want to ask you --- I'm
5 going to be asking you questions
6 about discussions that you may have
7 had with investigators, discussions
8 that you may have had with superior
9 officers, discussions that you may
10 have had with colleagues and that
11 sort of thing. Now, there's been
12 quite a body of information developed
13 in this lawsuit already about that
14 investigation. So if you can just
15 take a second here and sort of switch
16 gears, I'm going to ask you a bunch
17 of questions about that area. Okay?

18 A. Okay.

19 Q. Yes, sir. Thank you. Now,
20 have you reviewed, and if you have
21 tell me what parts of it you've
22 reviewed, if you've looked at it or
23 reviewed it --- the investigation
24 that --- we already know that it was
25 at Colonel Evanko's direction, but

1 what --- did you ever look at the
2 investigation or the work product or
3 anything like that that Major Werts
4 and Major Williams did into Captain
5 Ober in this matter about the FBI
6 interest in the Academy? Did you
7 ever look at that?

8 A. Yes.

9 Q. Now, did you read the
10 interviews that Major Williams did?

11 A. Yes.

12 Q. Did you read the interview
13 that he did with Colonel Evanko?

14 A. Yes.

15 Q. Now, did you read the
16 statement that you gave to Mr.
17 Williams?

18 A. Yes.

19 Q. Now, it's my understanding
20 that, at the time that that
21 investigation was done, you weren't
22 Department Disciplinary Officer or
23 anything, were you?

24 A. No.

25 Q. Okay. And is it fair to say

1 that during the time that that
2 investigation was done --- strike
3 that.

4 How much time had Captain Ober
5 spent in your command at the time
6 that that investigation was done?
7 When had you commanded him and where?

8 A. From October 1998 until April
9 of 1999.

10 Q. From October of 1999 to April
11 of 1999?

12 A. Let me change that.

13 Q. Yes, okay.

14 A. From October of 1998 until
15 sometime in early 1999. I'm not sure
16 the date when he left.

17 Q. That would've been when he
18 left to go to --- is it IIMS?

19 A. I believe that's correct.

20 Q. And that's the high technology
21 project that Colonel Evanko had
22 appointed him to; am I correct?

23 A. That's correct.

24 Q. So he was detached at that
25 point, in other words, he was

1 technically in your command
2 administratively, but he was
3 somewhere else doing other work?

4 A. That's correct.

5 Q. All right, sir. Now, let's go
6 back before October of '98. How much
7 time had you spent commanding Captain
8 Ober before that?

9 A. I had never been his commander
10 prior to that.

11 Q. Well, when did you first meet
12 him?

13 A. Early 1900s, 1990s. We worked
14 on detail together in Reading.

15 Q. In Reading, Pennsylvania doing
16 what?

17 A. Promotional examinations,
18 assessments.

19 Q. Describe for us the
20 interactions you may have had with
21 Captain Ober at that time.

22 A. Conversations.

23 Q. Now, you reported into BPR ---
24 where's Harmarville, Pennsylvania?

25 Is that in mother (sic) Westmoreland

1 or is that across the river in
2 Allegheny County?

3 A. That's Allegheny County,
4 across the river from Oakmont.

5 Q. Allegheny River. Good fishing
6 river, I'll tell you that. As a kid
7 growing up, I did a lot of fishing at
8 that river. Do you own any property
9 in Harmarville?

10 A. Personally?

11 Q. Yes.

12 A. No.

13 Q. Did you ever live there?

14 A. No.

15 Q. Have you ever worked out of
16 there, have an office there?

17 A. No.

18 Q. Now, you actually reported
19 into BPR in on or about October 6,
20 1998; correct?

21 A. That's correct.

22 Q. When did you first see Captain
23 Ober, if you remember? I realize,
24 you know, we're talking days here and
25 these may not be momentous events.

1 So, you know, to be fair to you, just
2 give me the best that you can do.

3 A. I believe it was October 6th,
4 1998.

5 Q. And can you describe the
6 circumstances for me?

7 A. I don't recall specifically.
8 I can tell you what I normally do
9 when I go to a new location.

10 Q. Yes, sir.

11 A. I talk to my commanders. In
12 this case, it would've been Captain
13 Ober and Captain Skurkis.

14 Q. Now, was he IAD or was he
15 inspections?

16 A. He being?

17 Q. Make it the easy way ---
18 Captain Ober at that time was head of
19 IAD and Mr. Skurkis was head of
20 inspections?

21 A. That's correct.

22 Q. Okay. Go ahead. Tell me what
23 you usually do.

24 Q. Well, I would come in and I
25 don't change things normally and I

1 usually let them know that. I
2 usually lay out my expectations of
3 them and request what expectations
4 they may have of me. And I go from
5 there.

6 Q. Who was there when you met, if
7 indeed anyone else was, when you met
8 with Captain Ober?

9 A. I usually meet with them
10 separately or alone.

11 Q. But you do remember that?

12 A. Yes.

13 Q. If I indicated to you that I
14 have information, which leads me to
15 believe that you didn't see Captain
16 Ober until almost a week later, would
17 you disagree strongly with that if
18 you revisited your recollection or
19 would you say to me, I'm sure you're
20 wrong or I'm not certain, but, you
21 know --- if I indicated to you that I
22 thought you didn't see Captain Ober
23 until maybe the 10th, 11th, 12th,
24 13th, something like that, what would
25 your reaction to that be? Am I

1 pretty much in error, do you think?

2 A. I'd be surprised if that was
3 correct.

4 Q. So you're not absolutely
5 certain, but your best recollection
6 is, based upon your methodology and
7 based upon your independent
8 recollection, you believe it was on
9 or about the 6th when you first came
10 in; is that fair to say?

11 A. That's correct.

12 Q. Now, did you do any evaluation
13 reports on Captain Ober?

14 A. I did not.

15 Q. Let me take you back to your
16 statement --- well, how many times
17 did you meet with Captain Ober? I
18 mean, physically meet with him
19 between October of '98 and when you
20 took over in January of '99 when he
21 went out to --- well, up here, I
22 guess, IIMS, this beautiful facility
23 here?

24 A. I don't know.

25 Q. Well, do you keep notes? You

1 know, I put a document request out to
2 your folks here at Pennsylvania State
3 Police. I don't know if I have much
4 about anything from you on your
5 meeting with Captain Ober at all. Do
6 you have any notes or memos or
7 anything of meeting with Captain
8 Ober?

9 A. No.

10 Q. He wasn't insubordinate or
11 disrespectful to you, was he?

12 A. In my opinion, Captain Ober
13 never come totally on board with me
14 on my command.

15 Q. Never totally what, sir?

16 A. Came on board.

17 Q. He never totally came on board
18 with you?

19 A. Yes.

20 Q. Why do you feel that way ---
21 strike that.

22 When you came up here to BPR,
23 how many years had you been with the
24 Pennsylvania State Police?

25 A. Well, I joined the State

1 Police in May of 1969.

2 Q. Okay. And you were --- a lot
3 of that time you were pushing troops.
4 In other words, you were a troop
5 commander. You dealt not just
6 administrative positions, I mean that
7 in a very complementary way. By the
8 way, I have a, you know, old Army
9 background, which I absolutely love
10 and one of the best experiences I
11 ever had in my life. So I respect
12 the idea of leading troops, of
13 leading --- you were a Troop B
14 Commander, a Troop E Commander, et
15 cetera; right?

16 A. That's correct.

17 Q. And you were out there dealing
18 with troops and everyday problems
19 where the rubber meets the road, so
20 to speak; right?

21 A. Pretty much.

22 Q. Okay. Now, you come up to
23 BPR. You've had a brief experience
24 back in the --- I think you said
25 early '90s, if I remember correctly,

1 with Captain Ober down in Reading,
2 Berks County; right?

3 A. That's correct.

4 Q. So, now we're up to October
5 '98, second week --- into the first
6 or second week of October, 1998,
7 you've got Thanksgiving, Christmas,
8 New Year's, Captain Ober's going to
9 IIMS in January of '99, so you and he
10 worked together, essentially, if I'm
11 correct, three-fourths of October,
12 November, December and a couple or
13 part maybe of January. I don't know
14 when in January. During that period
15 of time, tell me about the meetings,
16 discussions, experiences with Captain
17 Ober. Now, you're sitting here and
18 you must have a little bit of a
19 negative recollection. Now, here's
20 your opportunity to tell us why.
21 Tell us why. Why do you feel that
22 way? What did he do, what didn't he
23 do? But be specific, if you can,
24 give me some facts, if you can.
25 Okay?

1 A. Captain Ober and I, in my
2 opinion, did not communicate well. I
3 believe Captain Ober wanted to do
4 things his way and not necessarily
5 the way I thought they needed to be
6 done. I felt that Captain Ober had
7 his own particular rules that he
8 worked by. One of my expectations of
9 a captain working in headquarters is
10 that he'd be available for the field
11 during normal working hours. Captain
12 Ober wanted to work 7:00 to 3:00 or
13 some time prior to 8:00. I would
14 like my captains to be available when
15 the field asks for them, which is
16 only between 8:00 a.m. and 5:00 p.m.

17 Captain Ober had a tendency to
18 leave the office or the building
19 without telling me and we had
20 discussions about that. And
21 apparently this was going on for a
22 period of time. I only found out
23 when I was looking for him one day
24 and I was advised by one of the staff
25 members that he had left. And when I

1 had questioned him on it, he
2 indicated he had put a leave slip in
3 my in-basket. That's not good enough
4 for me. I expect my commanders to
5 talk to me directly. A leave slip is
6 appropriate, but unless you come and
7 tell me that you're leaving early, I
8 assume you're in the building.

9 Q. Did you tell him about that,
10 that that's the way you did things?

11 A. I did.

12 Q. All right. What did he do
13 after that? I mean, if he didn't
14 follow your orders after that, I
15 would certainly, you know --- I'd
16 consider that insubordination.

17 A. Well, you have to understand,
18 Captain Ober had been commanding or
19 acting director of the Bureau for
20 several months before I arrived. I
21 assumed he would get the position.
22 He didn't get the position. I
23 assumed there was some resentment
24 towards me and/or the administration
25 for that.

1 Q. Did you counsel him on that?

2 A. Well, we talked about it. If
3 you want to call it counseling, yes,
4 but we talked about it.

5 Q. And what did he say?

6 A. Well, actually, the
7 conversation we had actually occurred
8 prior to my arrival to the BPR. And
9 it was within hours of being notified
10 on October the 2nd that I had been
11 given this position. I called him on
12 the telephone and we discussed my new
13 position and new appointment, my
14 expectations. And he was
15 disappointed, but he said that he was
16 willing to work with me.

17 Q. Okay.

18 A. And during that period of
19 time, I told him that I wouldn't be
20 in the office until Tuesday, and is
21 there anything that I should be aware
22 of and he says, no. And ---.

23 Q. Hold for just one second,
24 please. Okay, you were at a point
25 where you said, is there anything I

1 should be aware of. You ask him if
2 there's anything ---.

3 A. I asked if there was anything
4 significant that I should be aware of
5 at that time and he didn't indicate
6 that there was anything that I should
7 be aware of. And I told him okay, I
8 was looking forward to coming into
9 the Bureau. I was looking forward to
10 working with him and I was expecting
11 his support. And I don't know how
12 long the conversation lasts, but it
13 was a telephone conversation. And I
14 recall it vividly, actually, because
15 I thought it was important that I
16 talk to him because it was new to me,
17 it was a new appointment to me. And
18 I thought that he was expecting the
19 appointment himself.

20 Q. Okay. Well, apparently you
21 came up and aside from the issue ---
22 understand this leave thing, you had
23 told him, I guess at some point, you
24 told him what you wanted from him.
25 Did he follow your orders after that

1 or did he disregard them?

2 A. You know, I think he --- I
3 can't recall specifically. Sometimes
4 he told me, sometimes he did not.
5 When he did not, I would speak to him
6 about that. For some investigations
7 that occurred, they were ongoing and
8 we discussed --- I gave him my input
9 on how I thought they should go or
10 get on with the investigations. And
11 he gave me his input and then we were
12 quite often on a different spectrum
13 --- different positions of the
14 spectrum, but as a Captain, I tried
15 to give him his heads. I thought
16 that was important. I thought it was
17 important at that point, at least
18 early on, that I let him do what he
19 thought was necessary as long as it
20 didn't hurt the agency or was too far
21 astray. I did have some concerns
22 with the directions of some of the
23 investigations though.

24 Q. Well, what do you mean as long
25 as it didn't hurt the agency? I

1 mean, that's not the IAD's job, is
2 it? Isn't the job to adhere to the
3 law and Codes of Ethics? I mean,
4 let's say, sir, let's say it hurts
5 the agency. Let's say it hurts the
6 agency terribly. What's your duty,
7 IAD?

8 A. IAD has the responsibility to
9 investigate complaints of misconduct
10 or inappropriate behavior by a
11 personnel and we have an obligation
12 to conduct fair and thorough
13 investigations in a timely fashion
14 without personal input. IA is not
15 like the criminal investigation where
16 we conduct investigations and put our
17 own opinions in there. In IA, the
18 purpose is to conduct your
19 investigations and let the
20 information speak for itself. Let
21 some impartial or some individual sit
22 down and look at it, and we refer to
23 them as adjudicators, look at that
24 and let the investigation speak for
25 itself. Let them make a decision,

1 not based on what I think, but upon
2 what the evidence lays out for them.

3 Q. But isn't that what you were
4 doing with Captain Ober? Disagreeing
5 with --- I mean, he needs to be
6 highly independent to do his job
7 properly; is that correct?

8 A. No.

9 Q. No?

10 A. No.

11 Q. Well, what comes first, the
12 interest of the Pennsylvania State
13 Police or the law?

14 A. IA deals more with
15 administrative matters versus the
16 law.

17 Q. Versus the law?

18 A. Yes.

19 Q. What does that mean? I don't
20 understand what that means.

21 A. That means we deal with
22 violations of rules and regulations
23 primarily. We don't deal with the
24 law itself, although on occasion we
25 do.

1 Q. I understand.

2 A. That's not our --- our
3 primarily responsibility is not to go
4 out and enforce the law. Quite
5 often, we have the criminal
6 investigators do that or some other
7 agency, if they're looking at us.

8 Q. In other words, in fairness to
9 you, then, if I understand you ---
10 you're not, you know --- it's not
11 some grand jury agency and it's not a
12 criminal investigative agency. It's
13 issues that have to do with the
14 Pennsylvania State Police?

15 A. That's correct.

16 Q. Now, if in the process of
17 doing your IAD job you bump into
18 criminal activity, I'm sure that
19 happens not infrequently, what do you
20 do about that?

21 A. Well, we take a look at it and
22 make a determination whether we
23 should retain ownership, that's the
24 IAD itself. Or refer it to the troop
25 level or some agency who may have

1 jurisdiction.

2 Q. Okay. Well, you made
3 reference in one of my earlier
4 questions about discussions that you
5 had with Captain Ober that you didn't
6 like some of the direction that those
7 investigations were taking. And I'd
8 like you to explain that for me,
9 please. What did you mean by that?

10 A. The investigation that comes
11 immediately to mind is the
12 investigation involving one of our
13 lieutenants. It involved an
14 allegation of cheating.

15 Q. Can you hold one second, sir,
16 just one second? Let me approach you
17 for just a moment. I'm getting a
18 sound wave interruption from this
19 thing right here. That will make all
20 the difference in the world, I assure
21 you, on that mic. The sound's
22 bouncing over top of that thing
23 there. I just noticed it. Okay, go
24 ahead, sir.

25 A. There was an investigation

1 involving one of our lieutenants,
2 where there was an allegation that
3 they may have cheated on a
4 promotional examination. And it had
5 been an ongoing investigation. And I
6 took a look at it to see where it was
7 going and in my opinion, looking at
8 it, it probably should've been
9 closed.

10 Q. Why? Well, I mean, if ---
11 let's look at that. Okay. And
12 Captain Ober kept it open or he was
13 keeping it open or who was? Who was
14 keeping it open?

15 A. At the direction of the
16 Captain.

17 Q. Do you remember why you wanted
18 it closed or --- that's unfair.
19 Let's rephrase that. Do you remember
20 what facts caused you to think it
21 should be closed?

22 A. After reviewing the
23 investigation or talking to the
24 Captain Ober and the investigators of
25 that particular case, it wasn't going

1 anywhere. It came to a standstill.

2 Q. Okay. And you had a
3 discussion with Captain Ober?

4 A. We discussed it.

5 Q. And what happened, as a
6 result? Did he end it or did he
7 continue it or ---?

8 A. No, he left it open. He felt
9 there was something there and it was
10 a need. And again, I let him keep
11 his head and that is to command the
12 unit and give further directions and
13 pursue the case further.

14 Q. Okay. Any other situations
15 you can think of?

16 A. Off the top of my head, I
17 can't think of anything. But there
18 were other cases where we disagreed.

19 Q. Did he ever disagree with you
20 in a disrespectful fashion?

21 A. Not face to face. He left my
22 office on occasions and returned to
23 his office and left the building,
24 slamming doors.

25 Q. When did he do that?

1 A. It occurred --- specifically
2 the case I'm thinking about, it
3 occurred at the Allentown Boulevard
4 office, where they're currently
5 located.

6 Q. Okay. So he left and --- he
7 left and he slammed the door?

8 A. No. He didn't slam my office
9 door. He ---.

10 Q. Oh, no. I wouldn't think he
11 slammed your office door, I mean the
12 building or whatever.

13 A. Yes, the building door.

14 Q. Now, I wouldn't think he'd
15 slam your office door. That would be
16 pretty bad. But it's bad enough
17 slamming the building door.

18 A. It was bad enough.

19 Q. Okay. And how long after he
20 left your office did he go out the
21 building door and slam the door?

22 A. Moments.

23 Q. Moments? Did you talk with
24 him about that?

25 A. No.

1 Q. Why not?

2 A. Because I was pissed.

3 Q. I would imagine. That's why
4 I'm asking if you talked to him about
5 it.

6 A. No. I started after him, then
7 I stopped. It wouldn't have been
8 good.

9 Q. Now, what --- I assume it's
10 totally unjustified. What caused
11 that anger, do you know?

12 A. I don't recall the incident
13 that led up to that. I know it
14 didn't go his way and he left the
15 office and he was upset.

16 Q. Did you go after him?

17 A. Nope.

18 Q. How do you know it was he that
19 slammed the door?

20 A. Because I started up ---.

21 Q. Your office is on the second
22 floor, isn't it?

23 A. Uh-huh (yes).

24 Q. And the door you're talking
25 about, I assume, is on the first

1 floor?

2 A. No, sir.

3 Q. It's on the second floor?

4 A. Yes, sir.

5 Q. Well, how do you know it was
6 him?

7 A. Because he's the only one who
8 went out that door.

9 Q. Well, how do you know that?

10 A. I asked my staff member.

11 Q. Who was?

12 A. Mrs. Blouch.

13 Q. Mrs. Blouch?

14 A. B-L-O-U. B-L-O-U-C-H.

15 Q. Okay. Now, what was this
16 about? What was this incident about?

17 A. I don't recall.

18 Q. You don't recall what he was
19 --- you don't know what he was angry
20 about? And I'm not saying he was
21 justifiably angry, but what was he
22 angry about?

23 A. I don't recall. I know we'd
24 had a conversation, he left my
25 office, went to his office and he

1 left the facilities.

2 Q. Was that after you told him
3 about putting in a leave slip before
4 he left?

5 A. I don't recall.

6 Q. So you're telling us that
7 Captain Ober openly defied you?

8 A. What I'm telling you is
9 Captain Ober didn't like the result
10 of our conversation and he left the
11 facilities.

12 Q. How many other people have you
13 talked to in your organization that
14 Captain Ober has treated in that
15 fashion?

16 A. I don't know of any. I can't
17 think of any.

18 Q. All right. Do you recollect
19 whether or not this had anything to
20 do over this discussion with the
21 investigation into this cheating or
22 purported cheating by this lieutenant
23 you were talking about?

24 A. I don't recall what
25 precipitated that.

1 Q. Yes, I just --- yes, you did
2 say that, but I just thought maybe
3 thinking back. Aside from the
4 lieutenant, can you remember any
5 other disagreements or major
6 disagreements?

7 A. We had several disagreements
8 and that's okay.

9 Q. I would assume that ---.

10 ATTORNEY CHRISTIE:

11 Excuse me. May I just
12 ask if Colonel Conley had
13 finished his answer? I don't
14 know, we left off with that's
15 okay before we continue the
16 questioning. Maybe you were
17 finished with that answer.

18 A. Actually, I was not. I mean,
19 that's okay. There's a process at
20 this level anyway of give and take,
21 and adjusting information and
22 evaluating it before you make a
23 decision. And just because you get
24 to be in charge doesn't mean you get
25 to make decisions in vacuums. So I

1 like to discuss the information with
2 my commanders, whether it be captains
3 or lieutenants or --- before I make a
4 decision. So, first to disagree, is
5 not a reason to get upset and it
6 certainly is not a reason for me to
7 get upset with anyone.

8 BY ATTORNEY BAILEY:

9 Q. Right. Sir, have you ever
10 directed an IAD director to
11 discontinue or close an
12 investigation?

13 A. No, I don't recall.

14 Q. Do you have any recollection
15 of Colonel Coury and/or Colonel
16 Evanko ever directing an IAD director
17 to close or to open an investigation?

18 A. I'm sure they've required
19 investigations be conducted. Is that
20 your question?

21 Q. No, sir, it's not. My
22 question --- I'll repeat it. Do you
23 have a recollection of Colonel Coury
24 and/or Colonel Evanko ever directing
25 an IAD director to either close,

1 discontinue or open an investigation?

2 A. I can't think of any.

3 Q. And if I remember correctly,
4 you have never --- you can't think of
5 any circumstance where you have
6 directed; is that right?

7 A. No, that's correct.

8 Q. What caused you to go to
9 Captain Ober --- I don't know the
10 circumstances under which this thing
11 over the lieutenant, this cheating
12 thing, arose. You may have indicted
13 it was just a review you were doing.
14 Can you tell me the circumstances
15 that caused you to get into a
16 discussion with Captain Ober about
17 that particular investigation?

18 A. Periodically, I review cases,
19 ongoing cases, cases that have been
20 going on for a lengthy period of
21 time. I don't recall specifically
22 what got me into that investigation.
23 I know it was an investigation that
24 probably should've been closed early
25 on, but sometimes we get these

1 positions where --- we come to a
2 position where we think, I can solve
3 this case, I can bring it to a head
4 and so I continue to work on it and
5 work on it and work on it and it
6 never goes anywhere.

7 Q. There's always a little smoke,
8 but you never can quite find that
9 flame. Is it proper for a superior
10 officer, whether it's a BPR director
11 or whether it's someone in the front
12 office, to have a director of IAD
13 start, stop or alter an
14 investigation? Is that permissible
15 in the Pennsylvania State Police?

16 A. As a director of BPR, I can
17 order them to conduct an
18 investigation or stop an
19 investigation. As Commissioner of
20 the Pennsylvania State Police or
21 Deputy Commissioner of
22 Administration, I can make that
23 order. Do I do that, no. When I
24 tell them to bring it to a halt, it's
25 because I'm taking a look at it if

1 it's not going anywhere. Have I told
2 anyone to do that, I have not. I
3 have not been instructed to bring an
4 investigation to a halt.

5 Q. Okay. Are you finished with
6 that?

7 A. I was trying to think. We let
8 the investigations and information
9 speak for themselves. When they no
10 longer speak, then it's time to bring
11 it to a halt.

12 Q. Is the idea to give the
13 investigator as much freedom as
14 possible so that they can do an
15 obstructed free and independent job;
16 is that the idea?

17 A. Within reason.

18 Q. Well, what do you mean within
19 reason? For example, if --- I'm
20 going to create an absurd,
21 hypothetical here, but let's say
22 somebody comes to you and says I want
23 the BPR to investigate so-and-so
24 because he's messing around with my
25 wife. That's not a proper purpose

1 under most circumstances, I would
2 think, for IAD to get involved; is
3 that fair to say?

4 A. That's correct.

5 Q. Because it doesn't have
6 anything to do with Pennsylvania
7 State Police business, I would
8 assume?

9 A. That's correct.

10 Q. All right. Well, are there
11 procedures and regulations that
12 govern Pennsylvania State Police
13 investigations, internal
14 investigations? I'm sorry.

15 A. Yes, sir.

16 Q. Off the top of your head, if
17 you know, what are they?

18 A. There's the FR manual.

19 Q. Is that 425 or something like
20 that, I think is the first one that
21 comes to my mind, if that's correct?

22 A. 425 is an administrative
23 regulation.

24 Q. Okay.

25 A. And it is what's created and

1 guides a lot of things that occur
2 within in the Internal Affairs
3 Division.

4 Q. Okay. Did you have to have a
5 reason to do an investigation?

6 A. We usually respond to
7 complaints.

8 Q. Strike that --- let me go back
9 a different way. Let me tell you
10 where --- I'm going to get at
11 something, just to give you an idea
12 of where I'm going. It's akin to
13 exploring reasons, you know, like
14 probable cause, justification for
15 doing things. That's where I'm
16 going. I think you correctly
17 ascertained that, with answering that
18 way, but anyway, that's where I'm
19 going. Okay?

20 A. Okay. Before I answer that
21 question, may I take a break?

22 Q. Yes, sir. Just a second. She
23 has to shut it down.

24 VIDEOGRAPHER:

25 11:01 a.m., we'll take

1 a short break.

2 OFF VIDEOTAPE

3 BRIEF RECESS TAKEN

4 ON VIDEOTAPE

5 VIDEOGRAPHER:

6 It's now 11:21 a.m.

7 We're back from the break and

8 back on the record and video.

9 BY ATTORNEY BAILEY:

10 Q. Okay. 11:21 a.m. Okay.

11 Let's see if I can shorten this up a
12 little bit for you, Colonel. Now, my
13 understanding is your home is in
14 Allegheny County; is that correct,
15 your permanent residence?

16 A. That's correct.

17 Q. I'm going to be asking you
18 some questions about a couple of
19 allegations and a complaint that have
20 to do with decisions you made to deny
21 certain reimbursements and what not
22 to Captain Ober. Okay?

23 A. Yes, sir.

24 Q. That's where I want to be
25 going. It is my understanding that

1 the Pennsylvania State Police are
2 issued, are allowed, are provided
3 free transportation --- free use of
4 the Pennsylvania Turnpike system in
5 doing official duties; is that
6 correct?

7 A. That's correct.

8 Q. Do you use that privilege, if
9 I can call it that, when you travel
10 between your home and office?

11 A. I do.

12 Q. And so if you're traveling
13 from your home to work on the
14 Pennsylvania Turnpike, you use that
15 privilege?

16 A. That's correct.

17 Q. And you don't pay for that or
18 reimburse that; right?

19 A. I do not.

20 Q. Why did you deny Captain Ober
21 the opportunity to use that privilege
22 when he was transferred to Washington
23 by the Colonel, by the Commissioner,
24 on or about January of what, 2000, I
25 guess it was, whenever it was then,

1 that so called transfer out to
2 Washington. Why was he denied that
3 privilege? Or is your testimony you
4 didn't deny him that privilege?

5 A. I don't know that I did deny
6 him that privilege.

7 Q. Okay. So if he testified or
8 documents indicated that you did,
9 they might be in error because you
10 don't remember?

11 ATTORNEY CHRISTIE:

12 Please, just Counsel,
13 which he are you referring to?
14 He testified, meaning who,
15 Captain Ober testified that
16 you did?

17 ATTORNEY BAILEY:

18 Yeah, if Captain Ober
19 testified. I don't know if
20 you'd get too other many folks
21 around here to testify for
22 him, so I'm going to assume
23 that it's Captain Ober.

24 BY ATTORNEY BAILEY:

25 Q. But if Captain Ober would've

1 testified that he was denied
2 privileges to use the turnpike when
3 he was transferred for that very
4 brief period of time until
5 Commonwealth Court stepped in or the
6 Department agreed, I'm sorry. One of
7 your attorneys says that it's because
8 the Department agreed. I don't want
9 to mischaracterize it. On the
10 transfer issue though, you don't
11 recollect that you denied him the use
12 of turnpike privileges?

13 A. I did not deny Captain Ober
14 turnpike privileges.

15 Q. Okay. And you have never
16 denied a trooper, including yourself,
17 turnpike privileges for traveling
18 between their residence and let's say
19 the start up at the beginning of the
20 week of work; right?

21 A. I need you to explain that to
22 me, sir.

23 Q. Sure. Has the issue ever
24 arisen for you as to whether or not a
25 member of the Pennsylvania State

1 Police should be denied Pennsylvania
2 Turnpike privileges in traveling
3 between either duty stations or from
4 home to a duty station, or from a
5 duty station to home?

6 A. I still heard that and I'm
7 still not sure, so let me give it
8 back to you.

9 Q. Okay.

10 A. Well, let me just say this.
11 If an officer is going from home to
12 work in a company car, I wouldn't
13 deny him any use of the turnpike. Or
14 if he was working going from station
15 to station, I wouldn't deny him
16 access to the turnpike. Actually, I
17 cannot deny him use of the turnpike.
18 That's open to the public.

19 Q. Oh, no. I don't think there's
20 any question you wouldn't deny him
21 use of the turnpike. That would be a
22 little silly and frivolous. I agree
23 with you. We're talking about either
24 reimbursement or the opportunity not
25 to pay out of his pocket for travel

1 on the turnpike or to have to seek
2 reimbursement for it as opposed to
3 use a credit card.

4 A. We issue, we being the
5 Pennsylvania State Police, issue
6 turnpike credit cards to our people
7 for use during official business.
8 And that can be construed going to
9 and from work. I can tell you that
10 when you go from one duty assignment
11 to the next duty assignment, you'll
12 not necessarily have that privilege.

13 Q. So you have denied people ---
14 if they requested that privilege,
15 you've denied them on the basis that
16 they're not necessarily entitled to
17 it?

18 A. I've never denied that
19 privilege.

20 Q. Has the issue ever come up
21 with you?

22 A. I don't recall, sir.

23 Q. Okay. Telephone. I believe
24 there was an issue mentioned even in
25 the amended complaint about an issue

1 of a telephone. Can you tell me what
2 that's about?

3 A. No, sir. You have to tell me
4 what you're looking for.

5 Q. I'm looking for taking away a
6 telephone from Captain Ober while he
7 was detached to IIMS.

8 A. Okay.

9 Q. Now, tell me what you remember
10 about that.

11 A. I think I know what you're
12 talking about now.

13 Q. Okay.

14 A. And you tell me if I'm
15 correct. Are you talking about the
16 equipment that we issue our people in
17 their course of the duty, maybe
18 turnpike credit cards, perhaps
19 cellular telephones, gas credit
20 cards, that type of equipment are you
21 referring to and the use of that
22 equipment?

23 Q. If the telephone falls within
24 that category, yes, sir. I'm talking
25 about a, you know --- I have never

1 walked in your shoes, I've never
2 worked within the Pennsylvania State
3 Police. I am talking about cellular
4 telephones that are used. Thank God,
5 I think from what I've been able to
6 study, you folks got onto the use of
7 the cellular phone, a little late,
8 but you did it. But, be that as it
9 may, I am talking about the use of
10 the cellular telephone, you know, and
11 account and equipment owned by the
12 Pennsylvania State Police provided
13 for an officer to use in the
14 performance of his or her duties.

15 A. Okay. I'm going to try to
16 answer your question. You can stop
17 me if I'm wrong. And I'll talk about
18 Captain Ober. When Captain Ober was
19 assigned to the Bureau of
20 Professional Responsibility, he was
21 assigned an automobile. The
22 automobile included the gasoline
23 credit card, it also included ---
24 issued equipment would've been a
25 turnpike credit card and he was also

1 issued a cellular telephone to be
2 used in conjunction with official
3 responsibilities. During my tenure
4 in BPR, Captain Ober was temporarily
5 transferred to the Bureau of Tech
6 Services and when he did that, he
7 took that equipment with him. I feel
8 that I'm a team player. They needed
9 some issues --- some things taken
10 care of over there. I know his
11 transfer was temporary in nature, so
12 there would be no reason to take that
13 equipment off of him.

14 Now, all of our entities,
15 whether it Bureau of Tech Services,
16 come with budgets and we must operate
17 or manage within those budgets. Once
18 Captain Ober was transferred from my
19 bureau to some other bureau, then
20 it's that bureau's responsibility to
21 take care of Captain Ober's expenses.
22 Now, once he's transferred, I would
23 request that my equipment, I said
24 equipment that I'm responsible for as
25 bureau director, be returned to me.

1 Or if he's troop transferred to some
2 troop or area commander, I would then
3 request that information be returned
4 to me, me being my bureau.

5 And that individual, that
6 entity, whether it be another bureau,
7 another troop or another area
8 command, at that point it's their
9 responsibility to fund Captain Ober's
10 activities. Because I know during
11 the course of his activities with
12 BTS, Bureau of Tech Services, I
13 reviewed the telephone bills from
14 time to time, the cell bills, and I
15 received a telephone bill from where
16 a call had been made from, I believe
17 it was Virginia, a long distance
18 call. Those were okay as an official
19 business, you know. However, that
20 cost me money, it comes out of my
21 budget and I'm held accountable for
22 that. Is that what you were
23 referring to, sir?

24 Q. I don't think I'm referring to
25 the rationale you provided, but I am

1 referring to the bottom line fact,
2 which as I understand it is, whatever
3 your reasons may have been, there was
4 a time when you asked Captain Ober to
5 turn in equipment and ---.

6 A. Let me give the answer. When
7 he no longer worked for me, I asked
8 for that equipment back.

9 Q. Right.

10 A. Not before that.

11 Q. You'd indicated he was
12 transferred temporarily at one point?

13 A. Detached status, I think he
14 referred to it as.

15 Q. Okay. My understanding is, if
16 that's so, why was the equipment
17 taken from him and why would it
18 occur? If my facts are correct and I
19 may not be, I thought that occurred
20 sometime in July of '99, around the
21 time this investigation was --- that
22 we're going to get to here, was
23 wrapping up. And it didn't fit fact-
24 wise to me and that's why I ask these
25 questions.

1 A. I don't know specifically what
2 date we're talking about. I know I
3 supported Captain Ober in his duties
4 until he was no longer responsible to
5 me.

6 Q. Okay. All right. So there's
7 an issue that Captain Ober has raised
8 with the turnpike, a card, and you're
9 telling us that in terms of
10 bureaucratic requirements and
11 budgetary considerations, in order to
12 keep your budget tight, reduce
13 expenses and make sure that costs are
14 appropriately assigned to whoever's
15 administratively responsible. You
16 made decisions about the availability
17 to Captain Ober of a turnpike card
18 and a telephone. Have I pretty much
19 subsequently stated it there?

20 A. It's fair.

21 Q. Okay. Now, at some point
22 Major Williams comes to you and Major
23 Williams does an interview with you
24 about Captain Ober during the
25 investigation into Captain Ober; is

1 that fair to say? Do you remember
2 that?

3 A. I don't know that Major
4 Williams conducted an investigation
5 onto or on Captain Ober.

6 Q. Okay. What did he --- what
7 was this investigation? You know
8 what it was about. I mean, I hope we
9 don't have to go into that. You know
10 what investigation I'm talking about,
11 don't you?

12 A. Yes, sir.

13 Q. Okay. Well, what was it about
14 then? What was it --- in other
15 words, if you take issue that it was
16 about Captain Ober, that's fine.
17 What was it about, based on your
18 knowledge there?

19 A. I do take issue with that,
20 sir.

21 Q. Sure, obviously you do. What
22 was it about, sir?

23 A. The investigation conducted by
24 Major Williams and Major Werts was
25 conducted upon the direction of the

1 Commissioner to determine what went
2 on, what were the circumstances, what
3 precipitated the events that Captain
4 Ober's involved in, to get to the
5 bottom line. Not into Captain Ober,
6 into what occurred and why it
7 occurred. And that's not unusual.

8 Q. Bottom line? What's that
9 mean? We know now that it's not into
10 Captain Ober. We know that your
11 recollection is that it's not into
12 Captain Ober. Now, what's it into?

13 A. The investigation, the
14 inquiry, if you will, was to
15 determine what occurred and why did
16 it occur.

17 Q. What occurred about, you know
18 --- I'm not being facetious, you
19 know. We're talking about something
20 that affects the State Police, okay?

21 So obviously, something that
22 occurred about the State Police and
23 something having to do with the State
24 Police. Can you elaborate, please?

25 A. I guess there was --- it

1 involves or it centers around why
2 there was an investigation by Captain
3 Ober that no one knew about. How
4 could that happen?

5 Q. Absolutely. I'm with you.
6 Why --- if I understand you
7 correctly, but I think we need to
8 make sure we get this clarified in
9 the record because I don't think it's
10 fair to you. You're not suggesting,
11 I don't think, that Captain Ober had
12 done some investigation that he
13 didn't tell anybody about. You don't
14 mean that or do you?

15 A. I don't think he had told the
16 appropriate people.

17 Q. Sir, let me go back again
18 because again, I want to make sure
19 this record's clear and I don't think
20 it's fair to you. Are you suggesting
21 that Captain Ober had done an
22 investigation, like an independent
23 investigation, of his own and he
24 didn't tell somebody? You don't mean
25 that do you or do you?

1 A. I mean that Captain Ober
2 conducted an investigation without
3 telling me.

4 Q. Okay. What investigation did
5 he conduct, that you later learned
6 about, that he didn't tell you about?
7 Now, remember you're saying --- sir,
8 you're testifying and that's why I
9 want to make sure it gets clarified
10 because I don't know what your
11 thought process is right now and I
12 want to be fair to you. I don't know
13 as I sit here, sir, honestly, of any
14 issue in this case of Captain Ober
15 conducting an investigation, okay,
16 which he didn't tell anybody about.

17 It's my understanding that
18 Captain Ober angered the Commissioner
19 because he didn't tell the
20 Commissioner about an investigation
21 the FBI was doing. I don't know of
22 any facts --- there's no facts known
23 to me which indicate that Captain
24 Ober did an investigation. Now,
25 you're bringing a new thing into this

1 case if you're telling me that your
2 understanding is that Captain Ober
3 did an investigation. I want to make
4 sure you clear that up because I
5 don't want any confusion there.

6 A. Okay.

7 Q. All right, sir. It's your
8 opportunity to clear that up. My
9 understanding is the FBI had come and
10 told Captain Ober about something,
11 okay? And we'll get a chance to talk
12 to our FBI friends, hopefully
13 shortly. And that the Commissioner
14 was angry because the Commissioner
15 didn't learn about it until May 12th
16 of 1999 and the FBI had come to
17 Captain Ober in the fall of '98.
18 That's my understanding.

19 Now, I don't have anything ---
20 there's nothing known to me that
21 would indicate that Captain Ober,
22 quote, unquote, conducted an
23 investigation. I want to make sure
24 that if that's what you're testifying
25 to that you can explain that because

1 honestly, sir, I don't have that
2 understanding. Can you elaborate,
3 please? Do you understand what I'm
4 asking?

5 A. I think I do.

6 Q. All right, sir. Would you try
7 to answer it, please?

8 A. Yes.

9 Q. Yes, thank you.

10 A. As I reviewed everything that
11 had occurred, sometime in the fall of
12 1998, the FBI came to Captain Ober
13 and they brought an allegation of
14 public corruption, if you will,
15 purchasing or buying your way onto
16 the State Police. And my
17 understanding is, they were looking
18 at somebody high up in the
19 organization who could influence
20 that.

21 Captain Ober, at that point,
22 has a couple obligations. One is to
23 notify his superior officer, his
24 immediate supervisor, unless that
25 individual is under suspicion. He

1 also had an obligation to document
2 that contact by making out a
3 complaint sheet or completing a
4 complaint worksheet.

5 Q. Can I ask you one small
6 question there? That complaint or
7 worksheet would be for BPR purposes?

8 A. That's correct.

9 Q. Okay, sir. Fine. Thank you.

10 A. And then Captain Ober or his
11 superior could do one of two things.
12 They could mirror the investigation
13 and conduct a concurrent
14 investigation and/or they could put
15 the administrative investigation on
16 hold, pending the resolution of the
17 criminal investigation.

18 Q. Okay.

19 A. And it's worked both ways over
20 the years and it's still been
21 refined. Now, the fact that Captain
22 Ober didn't tell anyone about that
23 tells me that one, he decided not to
24 let his superior officer or the guy
25 who supervises in the chain of

1 command, he did not let that guy do
2 his job. In this case, I think it's
3 me.

4 Q. Okay.

5 A. It further tells me that
6 Captain Ober retained ownership of
7 that investigation and is conducting
8 it himself.

9 Q. Okay. So you view what he did
10 as conducting an investigation,
11 that's what you're calling that?

12 A. He's gathering information,
13 yes.

14 Q. He's gathering information?

15 A. Yes. Absolutely.

16 Q. Well, let me ask you this
17 question. If you had started an
18 investigation into something that was
19 happening within the Pennsylvania
20 State Police and you didn't tell
21 anybody, what rules would you be
22 violating?

23 A. AR 425 tells me that I need to
24 make out a worksheet, I need to
25 assign an investigator. And if I do

1 not do that immediately, I need to
2 document why I'm not doing anything
3 immediately.

4 Q. Is that what Colonel Evanko
5 did when he launched the
6 investigation into Captain Ober,
7 which I understand that you don't
8 agree with my words, but let's call
9 it the investigation about --- we
10 need to agree on something to call
11 this thing in the fall, this creature
12 in the fall. If it's not into
13 Captain Ober, what would you like to
14 call it?

15 I have referred to it, sir, at
16 different times during these
17 proceedings as the investigation into
18 Captain Ober. No one's really taken
19 issue with that, but you have. In
20 fairness to you, I want to give it a
21 name that we both can understand that
22 we agree with. What would you call
23 that thing? Let's give it your name.
24 In the fall of '98, what was it? And
25 I'm talking now about the

1 investigation that Colonel Evanko
2 ordered.

3 A. That was an inquiry.

4 Q. Okay. For purposes of your
5 deposition here ---?

6 A. And that's interchangeable ---
7 we're talking semantics, inquiry
8 investigation, I call it inquiry.

9 Q. Well, why didn't the good
10 Colonel come over here to you and
11 give that thing a number when he
12 wanted to check him out or check into
13 the circumstances surrounding what he
14 did in the fall of '98? Why didn't
15 the Colonel do that?

16 A. I don't know he didn't do
17 that.

18 Q. Okay. Fair enough. Now, if
19 he did, would you know about it?

20 A. I should be aware of it.

21 Q. Well, then tell me.

22 A. Tell you?

23 Q. When he did that?

24 A. I don't know.

25 Q. You don't know? And you don't

1 know, sir ---?

2 A. You want a specific date, I
3 don't have a specific date.

4 Q. No. Because he never did
5 that, sir, did he? Colonel Evanko
6 never came to BPR and never had
7 anybody open a number, assign a
8 number, assign an investigation or
9 fill out a complaint sheet. Now, if
10 he did that, you tell me and you tell
11 me when he did it, sir, please.

12 A. I can't.

13 Q. No.

14 A. But what I can tell you
15 though, per AR 425 is the
16 Commissioner has the authority to
17 direct IA or anyone else in this
18 agency to look into matters, things
19 he wants answers to. And that's not
20 unusual. That's been occurring at
21 least since 1986. It's occurred
22 prior to that, but under a different
23 --- another number, another name.
24 Q. Sir, no problem. Then why did
25 Rick Brown, Captain Brown, sitting

1 right over there, give this thing a
2 1999, 503 number on the 20th of July,
3 1999?

4 A. What's the 503?

5 Q. That's the number about
6 Captain Ober's activities, or
7 whatever he did or may have done
8 wrong or whatever it may have been,
9 in the fall of 1998.

10 A. I don't know what you're
11 talking about. No, seriously. I
12 don't.

13 Q. I believe you and that's fine
14 with me. And I'll tell you what, if
15 the answer to a question is that you
16 don't know, provided it's truthful as
17 I'm sure you know ---.

18 A. I wouldn't lie to you, sir.

19 Q. No, sir. And I'm not saying
20 that you would and I'm not suggesting
21 you would, but if the answer is I
22 don't know, that's fine because
23 that's the truthful answer. And I
24 believe you. You don't know. Now,
25 when did you stop being Director of

1 BPR, sir?

2 A. My last day as Director of BPR
3 would've been September 1st of 2000.

4 Q. Yes, sir.

5 OFF VIDEOTAPE

6 BRIEF RECESS TAKEN

7 ON VIDEOTAPE

8 VIDEOGRAPHER:

9 It's now 11:45 a.m.

10 We're back on video and audio
11 and record.

12 BY ATTORNEY BAILEY:

13 Q. Do you know whether, at any
14 time, Captain Ober was named as the
15 subject of an investigation?

16 A. I don't believe that he was
17 named as a subject of an
18 investigation.

19 Q. By anyone?

20 A. No, sir.

21 Q. That would include Mr. Brown
22 as Director of IAD on or about July
23 of 1999; is that fair to say?

24 A. I don't believe him to be a
25 subject of the investigation.

1 Q. When you left the Bureau of
2 Professional Responsibility on or
3 about September of the year 2000,
4 were there any open BPRs on Captain
5 Ober? Any open investigations on
6 Captain Ober or anything having to do
7 with him?

8 A. I don't recall there being an
9 investigation on Captain Ober.

10 Q. Okay. Now, do you know
11 whether he was ever informed of the
12 --- whether the investigation into
13 the events of the fall of 1998 was
14 over or closed?

15 A. I don't know whether he was
16 told the results of that
17 investigation or not.

18 Q. Do you know whether it was
19 ever adjudicated, and if so, by whom?

20 A. I don't know that that should
21 be adjudicated. That was an inquiry
22 by the Commissioner.

23 Q. Well, it was assigned a number
24 July 20th, 1999. The number was
25 1999503 by Captain Brown. And

1 according to his testimony, that was
2 sometime after a discussion with you.
3 And I'm not implying that you asked
4 him to do that. In fact, I think his
5 testimony was on the contrary. They
6 did because it was administratively
7 what he felt should be done. At
8 least somebody assigned it a number
9 and I'm just going to ask you what
10 role you may have played in that.

11 A. I don't remember the
12 circumstances specifically, but
13 that's not unusual. Every inquiry or
14 investigation is assigned a number.

15 Q. Is assigned a number?

16 A. Yes.

17 Q. Months after it starts?

18 A. Generally, it's assigned up
19 front, right on. If, in fact, it's
20 been discovered that there has been a
21 number or it has not been assigned a
22 number, then the number's assigned a
23 that particular point.

24 Q. We know that you had a meeting
25 with Commissioner Evanko over in the

1 front office in May of 1999 having to
2 do with these events in the fall of
3 '98. Do you remember that meeting?

4 A. No, sir.

5 Q. Did you ever have any meetings
6 with Colonel Evanko about the events
7 of the fall of '98, the FBI inquiry?

8 A. I don't recall, sir.

9 Q. Did you ever have any meetings
10 with Colonel Coury?

11 A. Probably.

12 Q. Well, tell me about the
13 meetings that you had with Lieutenant
14 Colonel Coury.

15 A. I can't. I mean, what do you
16 want specifically, sir?

17 Q. Colonel Conley, you have
18 described for us a situation --- now,
19 you correct me now if I'm wrong,
20 okay? You have described for us,
21 have you not, a situation where the
22 command experience with Captain Ober
23 was, at best, unpleasant and there
24 were some problems; is that fair to
25 say? I'm being very, you know ---

1 not exaggerating it or anything like
2 that, you can at least say that there
3 were some problems and you were
4 unhappy with it; is that fair to say?

5 A. That's fair.

6 Q. All right. And you have
7 indicated in response to earlier
8 questions here today that you felt
9 Captain Ober did not act
10 appropriately. Not to say that he
11 acted criminally or that he deserved
12 discipline or anything like that, but
13 he did not act appropriately in not
14 reporting the FBI inquiry to you.
15 Now, you've told us that; right?

16 A. Yes, sir.

17 Q. And I assume the reason you
18 told us that is because Captain Ober
19 was the acting BPR Director and you
20 were coming in at the time --- well,
21 actually, October 3rd, that this
22 would've occurred at some time when
23 you were newly assigned to BPR and he
24 was acting Director and he was
25 Director of IAD. And that he

1 should've reported this to you, the
2 thing about the FBI to you; right?

3 A. I thought he should've
4 reported to me at least on October
5 2nd.

6 Q. At least on October 2nd, the
7 moment he heard about it, in fact, he
8 should've reported to you once, two
9 ways, either when he first knew you
10 were in charge or any kind of
11 transfer where you're discussing a
12 change of a leadership position, this
13 is the kind of thing that he was
14 duty-bound to inform you of in your
15 view; correct?

16 A. That's correct.

17 Q. Yes, sir. Now, you're now
18 telling us that you had discussions
19 with Lieutenant Colonel Coury about
20 this ---.

21 A. I didn't say that. You said
22 that.

23 Q. Oh, you didn't have any
24 discussions with Lieutenant Colonel
25 Coury?

1 A. Yes, but I believe your
2 question was did I meet with Colonel
3 Coury. And I didn't meet with
4 Colonel Coury.

5 Q. All right. Well, then let me
6 change my word. Did you have any
7 discussions with Lieutenant Colonel
8 Coury? I changed my question. Did
9 you have any discussions and, by the
10 way, in discussions I mean telephone,
11 meeting, e-mails, letters, whatever
12 --- I mean, it's --- you know.

13 A. Okay.

14 Q. You have to be a little bit
15 expansive with these things in doing
16 a deposition, you know. But my
17 question is, you know, did you have
18 any communications with Lieutenant
19 Colonel Coury in the spring of '99 or
20 summer of '99, let's just use that
21 area to start off with, about Captain
22 Ober?

23 A. Yes.

24 Q. Tell us about them.

25 A. I'm not sure of the exact

1 date. I received a page from the
2 office. Corporal told me that
3 Colonel Coury was looking for me, he
4 wanted to talk to me and that I
5 should return the call immediately.
6 I'm sure you have this date, but it
7 was right after --- it would've been
8 the same date that Captain Ober and
9 Colonel Hickes ---.

10 Q. May 12th or 13th.

11 A. Okay.

12 Q. Okay. Go ahead.

13 A. I remember the time or the
14 occurrence very vividly because it's
15 kind of --- something struck me as
16 something significant was occurring
17 within the Pennsylvania State Police
18 and I was about to become involved in
19 it. I called Colonel Coury. His
20 first question was, what do you know
21 about the investigation of corruption
22 or of hiring of people, or hiring of
23 cadets, within the Pennsylvania State
24 Police. And I had no knowledge
25 whatsoever. He says there was an

1 allegation to that effect or worse to
2 that effect. And I was on my cell
3 phone, I was traveling west on the
4 turnpike in or about Breezewood area.

5 That's when I said, hold on a
6 second, because I figured we had this
7 investigation that has come to his
8 attention and I was going to ---
9 figured I'd jot down some information
10 so I could call back to the office
11 and get somebody on this
12 investigation immediately. And I
13 pulled over to the side of the road
14 and I got my pen and paper out and I
15 asked him who specifically. And I
16 think he might have mentioned Stanton
17 and he went on to tell me that --- I
18 believe, he had learned of this from
19 Captain Ober and Colonel Hickes and
20 that's when I was a little confused
21 at that point because I thought
22 somebody within our organization was
23 selling jobs and that I was aware of
24 it and were we doing an investigation
25 on it.

1 But it wasn't 'til that moment
2 that I realized that the allegation
3 may have been against him or thoughts
4 were against him and other members of
5 the front office. And the
6 conversation was, I have no
7 knowledge, I don't have a clue what
8 you're talking about. And I think he
9 told me that Captain Ober had
10 initiated something or he was
11 involved in some type of
12 investigation involving State Police
13 and the hiring of cadets for pay.

14 Now, we had subsequent
15 conversations.

16 I don't recall what they --- how they
17 go specifically, but I could see why
18 he would come to me because being the
19 Director of BPR, I should've been
20 aware of that investigation if it was
21 ongoing. However, I was unaware of
22 it. They told me that the
23 investigation is now over, I guess,
24 and went from there.

25 Q. Well, one of the reasons he

1 called you was to find out if you
2 knew about, didn't he?

3 A. That was one of his first
4 questions. He asked, what do I know
5 about the investigation.

6 Q. And if it was a litmus test,
7 you passed because you said, I don't
8 know anything about this, didn't you?

9 A. I had no knowledge of the
10 investigation.

11 Q. And you told him that you
12 didn't have any knowledge of the
13 investigation? You were loyal.

14 A. I was honest.

15 Q. You were honest. Okay. And
16 so his first concern was to find out
17 if you knew anything about it?

18 A. I think he wanted to know, did
19 I know about it and what I knew about
20 it.

21 Q. And if you had known about it,
22 would you have told him? Now, before
23 you answer that, you have testified
24 that he indicated that there was some
25 concern in this matter about whether

1 or not he was involved. Let me tell
2 you where I'm going.

3 A. No.

4 Q. You know where I'm going?

5 A. I'm trying to recall what I
6 testified to, but go ahead.

7 Q. Well, I'm going to a very,
8 very simple place. Lieutenant
9 Colonel Coury calls up, in some
10 sequence of questions he wants to
11 find out if you knew about this. And
12 secondly, he expresses, rightfully or
13 wrongfully at that point, what is his
14 understanding about this FBI inquiry,
15 i.e. that might have involved him or
16 there might have been some fingers
17 pointed at him. Now, I'll tell you
18 where I'm going, sir. It sounds to
19 me like this is questioning whether
20 or not you knew anything about this
21 and, you know, what your loyalty was.
22 Would you have told him?

23 A. I don't know all the
24 circumstances that Captain Ober was
25 provided. Knowing what I know of ---

1 have worked with the FBI and knowing
2 what I know now, I wouldn't have
3 given a lot of validity to it because
4 my ---.

5 Q. Doesn't say much for the FBI,
6 sir. I don't mean to be funny.

7 A. Well, you have to understand.
8 My experience with the FBI is if
9 they're looking at me or someone even
10 close to me, they're not going to
11 tell you. The fact they even came to
12 Captain Ober, as I understand this
13 thing, they were getting him for
14 information because if they had
15 something within the State Police,
16 Captain Ober would not have been the
17 first to find out, believe me.

18 Q. Well, maybe they suspected
19 Colonel Evanko?

20 A. They wouldn't go to Captain
21 Ober.

22 Q. They wouldn't? Then why did
23 they? You just told us.

24 A. Information, they want
25 information. I'm sure of that.

1 Q. Did they think he was going to
2 go up and tell Colonel Evanko?

3 A. I don't know what they were
4 thinking.

5 Q. Of course not, you don't know,
6 because you weren't there and as you
7 said, you didn't know the
8 circumstances; right?

9 A. I can only base it on my
10 experience of working with the FBI.

11 Q. And why, then, are you upset
12 with Captain Ober for not telling you
13 if you don't know the circumstances
14 under which he was informed by the
15 FBI?

16 A. Because Captain Ober did not
17 give me the opportunity to do my job.

18 Q. Well, did you ever, ever, sir,
19 at any time, pick up a telephone or
20 sit down with Captain Ober and say,
21 Captain, why didn't you tell me?

22 A. I told Captain Ober very, very
23 bluntly, in my office one afternoon
24 after 4:00. I told him, he did not
25 give me, Hawthorne Conley, an

1 opportunity to do my job. He says,
2 sorry about that, or tough,
3 basically.

4 Q. Now, did he say, that's tough?
5 Now, that's pretty disrespectful.
6 You're not saying --- did he use
7 those words?

8 A. I'll tell you what --- I don't
9 know what words exactly he used, you
10 know.

11 Q. Yes, sir.

12 A. And whatever words he used, he
13 pissed me off.

14 Q. Okay. Well, he didn't tell
15 you, that's for sure.

16 A. No, he did not.

17 Q. And there was no question
18 about that. You were right about
19 that. He did not inform you; is that
20 correct, sir? I mean, there's no
21 question about that. I think
22 everybody agrees that he did not
23 inform you; is that correct?

24 A. That's correct.

25 Q. Did you --- now, let's go back

1 to my question. My question was and
2 it's very respectfully made, sir, did
3 you ask him why? Now, you told me
4 how you sat him down in his office
5 after 4:00, how you sat down and you
6 told him. My question is, did you
7 ask him, why didn't you tell me? You
8 never did that, did you?

9 A. No, I don't recall. I know we
10 discussed it. If that was the
11 question I should've asked, I don't
12 know if I did or did not ask that
13 question.

14 Q. Sir, I am not going to
15 question a Lieutenant Colonel in the
16 Pennsylvania State Police about why
17 they did or not ask a question. I
18 assure you that. That's --- I have
19 too much respect in your experience
20 to do that. I will say this to you.
21 Based upon my knowledge of this case
22 and my investigation into this case,
23 aside from Captain Ober's statement
24 to Major Williams, no one brought
25 this officer in, sat him down ---

1 whether it's Colonel Evanko, whether
2 it's Colonel Coury, whether it's
3 Colonel Conley, then Major Conley,
4 whether it's Captain Rick Brown, head
5 of the IAD --- no one brought him in
6 and just asked a few simple questions
7 that I expect would normally happen
8 in the command structure. And I'm
9 not faulting anybody for it. I'm
10 just saying --- what were your
11 reasons for not doing this or not
12 doing that? Now, his statement with
13 Mr. Williams will stand on its own,
14 but I can tell you, I can't find
15 evidence of your having asked him
16 that and I do have your statement
17 here and I do want to ask you some
18 questions about that.

19 A. Yes, no problem. But let me
20 tell you this, though.

21 Q. Yes, sir.

22 A. From the time this incident
23 surfaced, Captain Ober and I didn't
24 really converse anymore, any longer.
25 And the conversation that I'm telling

1 you about occurred some time later
2 when he was reimbursing the Bureau
3 for inappropriate expenditure.

4 Q. Okay. Was that the framing?

5 A. Yes.

6 Q. I have a couple questions on
7 that, too. Sir, do you have a
8 recollection of when this office
9 conversation may have occurred that
10 you're referring to?

11 A. No, but he should have the
12 check. So he would know exactly what
13 date that occurred.

14 Q. It was around that time?

15 A. He wrote a check out that
16 evening, that afternoon.

17 Q. Okay. And that was for --- he
18 had improperly, as I understand it,
19 he had, at least according to
20 yourself or the department, he had
21 sought a reimbursement or something,
22 or he had used a department fund or
23 something like that, to pay for a
24 frame for a commendation to a trooper
25 retiring or something of that sort.

1 Am I basically correct?

2 A. I think he had written a very
3 nice, that a boy, to a returning
4 sergeant and he had it --- my
5 secretary have it framed --- mounted,
6 framed and matted and what have you
7 for presentation. And he had used
8 the bureau Visa card for that
9 purpose.

10 Q. Okay.

11 A. Which does not usually occur.

12 Q. Okay. All right. Now, let me
13 ask you some questions about your
14 statement to Major Williams. Okay?

15 A. Yes, sir.

16 Q. This is Mr. Williams'
17 question. It says, describe your
18 feelings to me, now that you can
19 reflect back on this, as to how you
20 feel in that Captain Ober never
21 informed you of this investigation --
22 - he's talking about the events ---
23 the FBI inquiry, okay?

24 A. Okay.

25 ATTORNEY CHRISTIE:

1 Excuse me, Counsel, do
2 you have a copy for Colonel
3 Conley to look at while you're
4 questioning him from that
5 document, or a copy for me to
6 look at or a copy for both of
7 us to look at?

8 ATTORNEY BAILEY:

9 No, I don't. I have
10 --- this is his statement. I
11 assumed that you had it or
12 he's had it. I can certainly
13 show it to you. I'll read it
14 and then I'll give it to you.

15 ATTORNEY CHRISTIE:

16 Fine.

17 ATTORNEY BAILEY:

18 Okay.

19 BY ATTORNEY BAILEY:

20 Q. Conley, oh, well, I'll tell
21 you. I'm very disappointed, comma,
22 and this has been an ongoing problem
23 since I arrived in the Bureau in
24 October, period. I made my boss
25 aware of it and I've attempted to

1 work it out. And I'm going to ask
2 you some questions about that
3 statement, okay? Because Ober's a
4 Captain with the Pennsylvania State
5 Police, comma, I try to give him a
6 wide girth and let him do what was
7 necessary to get his job done,
8 period. However, comma, we have
9 continuously failed to communicate
10 effectively. And then there is a
11 description about the leave slip.
12 Okay? The incident that you have
13 already described. We had a
14 conversation, this is a paragraph
15 now, just before he left. He was
16 detached to the Bureau of Technology
17 Services. Now, that would be the
18 IIMS project; is that correct, sir?

19 A. Yes, sir.

20 Q. All right. Where again,
21 comma, I thought at this point we had
22 reached a level where we could
23 communication --- that's a typo, I'm
24 sure, given how well spoken you are.
25 But I've about had it --- now, this

1 is pretty clear here now. But I've
2 about had it with him, personally.
3 I've really had it with him. Now,
4 the date of this interview is June
5 8th, 1999. And then it goes onto
6 some questions about a hotel room and
7 charging that, which I don't know how
8 relevant that is, but if you want to
9 look at this, that's fine. I just
10 want to ask about some of these
11 language and some of these
12 conclusions because aside from this
13 leave issue and the door issue, I
14 want to find out if there's anything
15 else. And then I'm going to ask you
16 some questions about who you meant by
17 your boss and what those discussions
18 were and when that discussion took
19 place. And I'm going to come back to
20 Lieutenant Colonel Coury and your
21 discussions with him.

22 ATTORNEY CHRISTIE:

23 I'm just going to ask.
24 Counsel, are you marking this
25 or just referring to it?

1 ATTORNEY BAILEY:

2 It should be in this
3 case as part of the documents
4 you've produced. In fact, it
5 is. It's part of the, you
6 know.

7 ATTORNEY CHRISTIE:

8 Right.

9 ATTORNEY BAILEY:

10 If you want to mark it
11 for this deposition, we can do
12 that, sure. Is that more
13 convenient?

14 ATTORNEY CHRISTIE:

15 I would prefer that you
16 do, that way it's a matter of
17 record as to, at least, what
18 are the two pages, page four
19 and five, of the interview.
20 So if you could do that, I'd
21 appreciate it.

22 ATTORNEY BAILEY:

23 Okay. I'll ask that
24 they be marked and I'm sure
25 you can make me some copies

1 here; right?

2 ATTORNEY CHRISTIE:

3 Yes.

4 ATTORNEY BAILEY:

5 Okay.

6 ATTORNEY BAILEY:

7 You can use that right
8 in front of you. By the way,
9 I'll give you a copy that's
10 unmarked so you don't have to
11 --- okay?

12 ATTORNEY CHRISTIE:

13 Okay. Or you can mark
14 that one if you like, is that
15 Conley One or how are you
16 marking it?

17 ATTORNEY BAILEY:

18 Do it that way, that's
19 fine. Okay. I'm going to
20 mark it Conley One, one of two
21 pages, Conley marked two of
22 two.

23 (Deposition Exhibit
24 Conley One marked for
25 identification.)

1 ATTORNEY CHRISTIE:

2 Thank you.

3 BY ATTORNEY BAILEY:

4 Q. You say, I've had a discussion
5 with my boss. Who did you mean?

6 A. That would've been Lieutenant
7 Colonel Coury at the time.

8 Q. Okay. Now, this interview was
9 done, you will agree with me, on June
10 8th, 1999?

11 A. It's marked June 8th, 1999.

12 Q. Now, am I wrong, but on June
13 8th, 1999, Captain Ober had been, for
14 some considerable period of time,
15 weeks if not months, had been
16 detached to the Bureau of Technology
17 Services; am I correct?

18 A. That's correct.

19 Q. Meaning no disrespect, why is
20 this such a visceral issue? I mean,
21 I can't find in his records anywhere
22 where you wrote him up, any
23 supervisory notations, any
24 admonitions of this issue of leave,
25 the door slamming incident that you

1 related to, which, you know, he has
2 denied to me, but I'm sure that
3 that's your recollection, that's what
4 you believe occurred. But anyway,
5 you've got that incident there,
6 you've got the leave thing, okay?
7 What --- I really had it with him? I
8 mean, is that --- years of experience
9 in the Pennsylvania State Police
10 dealing with people, those things had
11 you that angry? Leave slips and door
12 incident, that's what I've heard so
13 far. What had this man done? I've
14 really had it with him.

15 A. Well, as I said earlier,
16 Captain Ober is someone who likes to
17 do things his way. And I looked at
18 it, I saw him or he thought he was
19 inventing a new process here.
20 There's nothing new about conducting
21 investigations. You adhere to the
22 rules and regulations and the law, if
23 you will. Captain Ober wanted to
24 incorporate opinions into the IA
25 process. He says they do it in the

1 law on a regular basis. And I think
2 I mentioned it earlier, there's a
3 difference between a criminal
4 investigation and doing an
5 administrative investigation, and I
6 reiterated to him that it's necessary
7 that the evidence speak for himself
8 and that we not speak for it.

9 It's important that IA remain
10 impartial in our investigations.
11 That's how we maintain the respect of
12 the agency itself. As you know and
13 as I'm sure you're aware of, that IA
14 does not have a real pretty picture
15 in the real world, in other agencies.
16 I think we command a lot of respect
17 because what we've done over a period
18 of years. I think that Captain Ober
19 wanted to change some of those
20 things. Now, initially, I have to
21 take a look at it. I might disagree,
22 but I may have to take a look at it
23 and see, maybe he's absolutely
24 correct.

25 It's just like when he

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1 invented the supervisory inquiry form
2 and that process. That's the first
3 thing that jumped at me when I went
4 into the Bureau. I said, what's this
5 all about, and I think his response
6 was, well, it's an opportunity to
7 quicken the system up and I said,
8 that's a good idea because I think
9 quite often, the system or the
10 process does take too long. I think
11 it's important that we provide our
12 people, members of the Pennsylvania
13 State Police, members and employees
14 as well, with not only a fair and
15 accurate investigation, but an
16 investigation that's done in a timely
17 fashion. I think the process takes
18 too long sometimes. I think we have
19 to be aware of our time constraints.
20 And I think that when we don't do
21 that, we hurt the individual and we
22 hurt the agency as well.

23 I think there was an
24 investigation down in, as I think
25 about it, down in Greene County. A

1 young man that was accused of
2 insurance fraud and I think Captain
3 Ober kept that case going. There
4 were some issues going on there
5 where, eventually, that case was
6 dismissed. It didn't go criminally
7 and didn't go administratively. When
8 it did go administratively, the
9 arbitrator kicked it out because we,
10 Pennsylvania State Police, IA, did
11 not comply or adhere to our time
12 constraints.

13 I think about processes that
14 creates --- where we're criticized.
15 I think we have to be cognizant of
16 that things or people around us and
17 how they will look at us. We, IA,
18 must be above board and we must
19 adhere to those things --- I mean, I
20 can't tell you do it and not live
21 that same life. And I think we must
22 do that and I don't think we always
23 did that.

24 I'm definitely not in
25 opposition to being new and

1 innovative, but again, within the
2 frameworks that they will permit us
3 to do. We not only have FR to comply
4 with, we have the AR, which is at 425
5 to comply with, we have the PSTA
6 contract we have to comply with, as
7 well as side letters. And sometimes
8 you forget those things, they just go
9 by the wayside. Believe me, they
10 only go by the wayside to get to
11 arbitration, then they bring them
12 right back to you. And then you
13 remember each and every one of them.

14 I think Captain Ober was
15 trying to do a lot of good things
16 there. I think he lacked experience
17 in that particular position.
18 Eventually, he might have gotten
19 there, but I think he was just kind
20 of used to doing things his own way.
21 And he wasn't used to people
22 questioning or asking him about
23 things. What I tried to explain to
24 him and I explain to everyone who's
25 worked for me, it's all right for you

1 to be in charge and run your
2 particular division, but remember,
3 I'm the Director of the Bureau, or I
4 am the Troop Commander.

5 When things go wrong and I
6 don't really care if whether it's the
7 trooper that goes wrong or an
8 investigator in IA goes wrong, the
9 Colonel doesn't call that trooper.
10 The Colonel doesn't call that
11 investigator. He calls Hawthorne
12 Conley if he's the Director of the
13 BPR. He calls Hawthorne Conley if
14 he's the Troop Commander. I am held
15 responsible, therefore, I have a
16 right to know. So tell me. That's
17 all I asked from this man. Tell me,
18 communicate with me. He didn't do
19 that. I've only given you one or two
20 occasions, but I can tell you it was
21 ongoing.

22 Now, there was a time when we
23 would and I'll tell you, I felt good
24 about some things, but there was a
25 time things did come in. There was

1 other times it didn't happen and I
2 told him about it. Do I document,
3 have I documented, I have not. Is
4 that poor on my part, I think so.
5 But that's my particular style.
6 That's just how I do things, I
7 recall. Now, if I'm at a point where
8 I decide that maybe I should start
9 discipline, yeah, I'll document those
10 things. It would've been better if I
11 had documented a lot sooner than that
12 point, but I'll start my paper trail
13 when appropriate, very appropriately.

14 I did tell my boss, you know,
15 after this came to light, I was
16 tired. I was just tired, you know.
17 When he was out of the Bureau at this
18 particular point, I told him I didn't
19 want him back. I didn't want him
20 back because I couldn't trust the
21 man. Obviously, he couldn't trust
22 me, so I can't trust him.

23 I'm trying to think of the
24 investigation --- I guess, it still
25 causes the hassles right now, it's of

1 the investigation of a young man that
2 they suspected of taking narcotics or
3 some restricted product and say took
4 hair samples. And our people weren't
5 necessarily trained in conducting,
6 collecting hair samples. There's a
7 method and manner you do that, you
8 know. You do it in the proper method
9 and you can track marijuana for up to
10 six months, you know, and if it's
11 some other narcotic, you know you can
12 settle it within several days, you
13 know --- the samples were
14 inappropriately collected, the Union
15 has been on us ever since then. And
16 I think we're being sued as a result
17 of that case as well.

18 Q. Given the analysis you've just
19 provided us here in the last few
20 moments, tell us what Colonel Evanko
21 did in his initiating the
22 investigation into the events of the
23 fall of '98 that comply with the
24 procedural safeguards because that's
25 what underlies what you've indicated

1 here. Concerns about procedural
2 safeguards, you know, like procedural
3 due process, cornerstone of our
4 democracy. How did what the Colonel
5 did --- did he conform with those
6 regulations, guidelines, procedures
7 and customs when he had Mr. --- the
8 events of the fall of 1998
9 investigated?

10 A. I don't know that he did not.
11 He requested an investigation be
12 conducted. He requested an
13 investigation be conducted by two
14 senior command members of the
15 Pennsylvania State Police, of who had
16 no knowledge of this. He brought one
17 in from Eastern Pennsylvania and one
18 in from Northeastern Pennsylvania,
19 who are, hopefully, immune or have no
20 knowledge of this. I mean, this is
21 collected data. Collected data and
22 they won't let it speak for itself.
23 And ---.

24 Q. Why not go to the FBI and
25 collect the data?

1 A. Oh, I'm sure they were
2 interviewed as well.

3 Q. Do you know whether they had
4 any knowledge of how long they were
5 aware of this alleged problem with
6 influence peddling in the
7 Pennsylvania State Police? It was
8 alleged, you know, thank God it ended
9 up being unfounded, but --- so don't
10 read anything into that. But ---.

11 A. No, but you're referring to
12 the FBI?

13 Q. Yes, sir.

14 A. Okay.

15 Q. Yes. Do you know how long
16 they were aware of it?

17 A. It's come to my attention now
18 that this was a small investigation
19 that they kind of revived some new
20 --- revisory agent was in town and
21 says, well, let's clean up the house.
22 That's something we do as well, you
23 know, investigation gets old and
24 becomes stagnant, you know --- just
25 clean it up. Either something's

1 there or it's not there. If there's
2 something there, let's deal with it.
3 If there's nothing there, let's just
4 get rid of it.

5 VIDEOGRAPHER:

6 I need to switch the
7 tape.

8 ATTORNEY BAILEY:

9 Okay. Announce what
10 the time is.

11 VIDEOGRAPHER:

12 12:18 p.m. It's the
13 end of tape one of the
14 deposition of Hawthorne
15 Conley.

16 OFF VIDEOTAPE

17 BRIEF RECESS TAKEN

18 ON VIDEOTAPE

19 VIDEOGRAPHER:

20 It is still 12:18 p.m.
21 This is tape number two of the
22 deposition of Hawthorne
23 Conley. Do you want to take a
24 break?

25 ATTORNEY BAILEY:

1 Yes. I think while you
2 were changing tapes, there's
3 been a request to have a
4 break. Let's suggest --- let
5 me ask just a couple of
6 things. Obviously, this is
7 taking longer than envisioned
8 and we got a very late start
9 due to the stenographer and
10 then due to our technical
11 problems. We're going to have
12 to McCrevey (phonetic), you
13 know --- hopefully, we can do
14 him today. But Lieutenant
15 Colonel Coury is next.

16 ATTORNEY CHRISTIE:

17 What do you expect,
18 Counsel?

19 ATTORNEY BAILEY:

20 Can we get a sandwich
21 ---? Well, I just, you know
22 what I'd like to do? Just go
23 right through here, you know,
24 put a sandwich down here in
25 front and just keep moving. I

131

1 want to get these things done.
2 I am going to request --- I
3 understand you don't concur.
4 I am going to --- I definitely
5 decided to request an
6 enlargement of time with the
7 Federal Court. So we'll deal
8 with that later. But Barb,
9 could --- it's 12:20, maybe,
10 is there a sandwich place in
11 this building here? Do you
12 have a snack bar here?

13 ATTORNEY CHRISTIE:

14 Not in the building.
15 There's a snack bar, but it's
16 just the machines. Let me
17 just --- can I ---?

18 ATTORNEY BAILEY:

19 Well, get something out
20 of the machine then. Go
21 ahead.

22 ATTORNEY CHRISTIE:

23 Okay. How much longer
24 do you expect to be,
25 approximately?

1 ATTORNEY BAILEY:

2 I think it depends on
3 how his responses go, but I
4 think I could finish it up in
5 an hour or so.

6 ATTORNEY CHRISTIE:

7 In an hour, okay.

8 ATTORNEY BAILEY:

9 I mean, I can try. I
10 can't promise, but I'll try.

11 ATTORNEY CHRISTIE:

12 Okay. All right. And
13 let's see. At this point, we
14 could back up Corporal
15 McCrevey and your preference
16 is just keep going here and
17 just order out something?

18 ATTORNEY BAILEY:

19 It's just to go. I'll
20 get something out of the
21 machine, I don't really care.
22 I just think time is such a
23 thing, you know, I'll grab a
24 snack and go, but, you know,
25 I'm not going to do that if

1 that's not --- if he's not
2 happy with that. It's up to
3 him and you.

4 ATTORNEY CHRISTIE:

5 Is that all right with
6 you, Colonel?

7 A. Give me five minutes. That's
8 all I need.

9 ATTORNEY BAILEY:

10 All right. Let's take
11 five minutes --- let's take a
12 break and grab --- take ten
13 minutes, reconvene at 12:30
14 and show me where the vending
15 machine is. Wait, sorry,
16 Colonel, could you sit down
17 until she ---.

18 A. Sorry about that.

19 VIDEOGRAPHER:

20 The time is 12:20 p.m.
21 We're going to take a short
22 break. Thank you.

23 OFF VIDEOTAPE

24 BRIEF RECESS TAKEN

25 ON VIDEOTAPE

1 VIDEOGRAPHER:

2 It is now 12:44 p.m.

3 We're going on video, audio
4 and record.

5 BY ATTORNEY BAILEY:

6 Q. Okay. Colonel, I don't
7 remember exactly what was on the ---
8 what was there, but let me try to,
9 you know --- the question when we
10 took the break. But let me rephrase.
11 Are there any facts known to you that
12 would indicate that --- I had asked
13 you a question whether or not Colonel
14 Evanko had followed the rules or
15 procedures and whatnot in the
16 situation where the events in the
17 fall of '98 were looked into and you
18 had indicated that you didn't know
19 that he didn't. Let me know ask you
20 some follow-up questions to that.
21 You had indicated that you were Troop
22 B Commander from what dates, again?
23 Could you give me the dates again
24 when you were Troop B Commander?

25 A. Yes, sir. January of '98 up

1 until October 2nd of '98 when I
2 received my notification of my
3 promotion in '98.

4 Q. Now, you know where Belle
5 Vernon and North Belle Vernon are;
6 right?

7 A. Yes, sir, I do.

8 Q. And you know where the
9 Youghiogheny River is; right?

10 A. Yes, sir.

11 Q. And you know that part of
12 Westmoreland County, which would be
13 --- which would include Rostraver
14 Township, Monessen, Scottdale, North
15 Belle Vernon, Belle Vernon, Fayette
16 County --- you know that they are
17 part of Troop B; right?

18 A. Yes, sir.

19 Q. Where was Stanton --- where
20 was he assigned during the time that
21 you were Commander of Troop B?

22 A. I don't know.

23 Q. Well, how many troops did you
24 have --- how many troopers did you
25 have in your command when you were

1 Troop B Commander?

2 A. Troop B is close to 400
3 people.

4 Q. 400 people. Is it fair to say
5 that if Kip Stanton were one of your
6 troopers, you'd know it?

7 A. No.

8 Q. Okay. Is it possible that Kip
9 Stanton was in your command during
10 the period of time that the FBI was
11 checking into these allegations of
12 public corruption?

13 A. If they were checking into him
14 between the earlier part of 1998 and
15 if he was in Troop B, then he would
16 be part of my command. I can tell
17 you I don't know Kip Stanton, if
18 that's one of your questions also.

19 Q. Well, I believe that you don't
20 know him and I'm not arguing with you
21 whether you knew him or not. I
22 accept your testimony, you don't know
23 him. The issue is, have you done any
24 investigation --- let me say this to
25 you, sir. I may be mistaken, what

1 cursory research I have been able to
2 do and again, I'm not a Pennsylvania
3 State Policeman, but what cursory
4 research I have been about to do and
5 I've gleaned this, honestly, just
6 from the --- what investigative ---
7 I'm still waiting, incidentally, for
8 transcripts of the wire taps from
9 your attorneys and I'm very curious
10 to see what those things have to say
11 because my understand is that Kip
12 Stanton was in your command during
13 the period of time that the FBI was
14 gathering information and looking at
15 him. And if that's so, wouldn't that
16 be a conflict, possibly?

17 A. No. Why would that be?

18 Q. Well, if I'm Darrell Ober and
19 the FBI brings me information and
20 raises concerns and we'll find out
21 what they have to say about certain
22 things, our good friends in the FBI.
23 I'm looking forward to the
24 opportunity to converse with them.
25 To me, does it raise a possibility

1 from the standpoint of just ensuring
2 the integrity of an investigation
3 that you be very, very careful that
4 you don't, you know, obstruct or
5 impugn the integrity of that
6 investigation, if you're talking
7 about someone's chain of command.
8 Somebody that's in that chain of
9 command, you know --- bottom line,
10 did Mr. Ober have any reason to be
11 concerned --- not that anyone is
12 doubting your integrity and we're not
13 implying that, but that you were the
14 Commander of Kip Stanton, if indeed
15 that's correct, during the period of
16 time the FBI's looking at him.
17 Should he have had any concerns about
18 that? If it's a political corruption
19 case and the idea is that it goes up
20 the chain of command somewhere. No
21 specific reference to you, sir, I'm
22 not implying that. I want to make
23 sure the record's clear that way, all
24 right?
25 A. Thank you.

1 Q. Because, you know, we're not
2 here to --- I'm not a believer in
3 dirty politics, okay? And I don't
4 want to bring any inference of that
5 into this case because it's not what
6 we're after. My question's a very,
7 very simple one. You're an FBI
8 investigator, you have certain
9 information, it may not be very
10 precise. Your concern is that
11 somebody's buying or selling
12 positions, you've got a confidential
13 informant and information there that,
14 you know --- hey, it's not clear, but
15 it's, you know, finger pointing
16 stuff, generally. And the idea is
17 that this individual and somebody
18 above in the chain of command, okay?
19 Now, you're Troop B Commander and
20 you're the Commander of Stanton, if
21 that's the case at that time.

22 A. Okay.

23 Q. I'm in the Pennsylvania State
24 Police, I'm approached for, you know,
25 maybe organizational information,

1 whatever the purpose is. Okay. I
2 don't know. The FBI can tell us.
3 They can tell us why their bosses
4 didn't call Colonel Evanko, they're
5 good friend. But they can explain
6 that. We just are sitting here with
7 Captain Ober, that's all we know.
8 Should he have come to you, because
9 you're Stanton's Commander, and said,
10 hey, this might involve a guy in your
11 command? Should he have done that?

12 A. Can I tell you what we do
13 normally?

14 Q. No. Tell me under these
15 circumstances, if you can.

16 A. Absolutely.

17 Q. He should have?

18 A. Absolutely. He should've
19 called. Absolutely. I'll tell you
20 --- you know what? I'm sorry. I
21 shouldn't go that way.

22 Q. No, no.

23 A. But you know what? We always
24 tell our Troop Commander what's going
25 on within his troop, without a doubt,

1 almost always. Ninety-nine (99)
2 percent of the time we tell them
3 what's going on in their troop.

4 Q. I understand how you feel.

5 A. And he may just tell you that
6 I got something going on already and
7 we just heard something on that. You
8 know, you've missed so much
9 information when you don't talk to
10 people.

11 Q. Okay. Why do you think he
12 didn't do that?

13 A. I don't have a clue.

14 Q. Okay.

15 A. I apologize.

16 Q. No, don't worry.

17 A. Yes, I do.

18 Q. I understand these are very
19 strong feelings and everybody's got
20 strong feelings on something like
21 this because --- look, I understand
22 the motivation. I'm sure when I talk
23 to Colonel Evanko, you know, he's
24 going to tell us why he was
25 concerned, you're telling us why

1 you're concerned and, you know,
2 Captain Ober's explaining why he did
3 what he did.

4 A. Can I tell you this? In my
5 experience --- and I don't want to
6 give you too much because I know
7 you're trying to get this over with.
8 I've worked with the FBI even while
9 in the IA, as an investigator, as a
10 commander. When our people are
11 wrong, we go after them and we take
12 appropriate action. They've assisted
13 us in those investigations, whether
14 it be the FBI or the ATF or the DEA.
15 We've worked with all those agencies
16 in pursuing troopers that we think
17 may or may not be wrong. We've never
18 let troop commanders out of the loop
19 on those particular cases. Quite
20 often, we need their aid, their
21 assistance, in doing that.

22 It just --- I've said it
23 already and I'm going to say it one
24 more time. It doesn't ring true to
25 me that if the FBI was after the

1 Commissioner or the Deputy
2 Commissioner of the State Police,
3 they would go to a captain in IA
4 about that. They may go to some
5 other agency within --- the Inspector
6 General. They would go to the
7 Inspector General and say, hey, let's
8 take a look at this perhaps, you know
9 --- they're the ones that could come
10 ---. We are permitted to investigate
11 ourself, the Pennsylvania State
12 Police, and some other agencies do
13 that to some extent. But the
14 Inspector General, they have the
15 right to investigate all the state
16 agencies within Pennsylvania. And
17 they could get that information. And
18 that's just based on my experience
19 with these folks.

20 Q. Well, I'm not a fan of the
21 FBI. I've had experiences where in
22 my view, I've seen the FBI flat out
23 lie. I tell them that, so I'm
24 telling you that. I'll tell anybody
25 that. Furthermore, I'll prove it,

1 but, you know, there's good and bad,
2 and there's good and bad
3 investigations. There's some great
4 FBI people and there's some people
5 that aren't so great. We all know
6 that's human nature and we know any
7 of our large organizations has good
8 or bad.

9 Here, the issue is, you know
10 --- you really bag a question by your
11 response and it is as follows. Why,
12 then, did the FBI go to Ober? I
13 mean, it's clear he had no special
14 relationship with anybody or
15 anything. Is it possible that they
16 went to Ober simply because maybe
17 they didn't have that concern that he
18 would be involved in something, but
19 secondly, because they needed certain
20 basic information and they needed to
21 contact somebody for information.

22 The issue then becomes, of
23 course, for the Pennsylvania State
24 Police involved, you know, what Mr.
25 Ober did or what decisions he made.

1 And that's why this whole thing gave
2 rise, we allege to these things that
3 caused this whole lawsuit. What I am
4 asking is, and I think you've
5 answered it, in your opinion, in your
6 view is that under circumstances
7 where Mr. Stanton was within your
8 command and there's somebody saying
9 the higher ups in the State Police
10 --- at one point there is testimony
11 that a Lieutenant Colonel was
12 mentioned, okay, as a rank. Plus,
13 there's other references, okay? A
14 state senator, we know, was mentioned
15 by name, a state representative by
16 name.

17 Now, there's a question of
18 when, but there's more tantalizing
19 questions as to how that implicates
20 what happened to Captain Ober and
21 whether the FBI is being truthful.
22 So we'll find out about that and they
23 can get their little stuff on the
24 record. But what I want to ask, if I
25 could read this to you. If I can

1 read something to you. This is from
2 the Williams' interview of Agent Kush
3 and this is a quote.

4 Before I start, I'd like to
5 give you some background on this
6 case, this is Agent Kush. This case
7 actually began approximately five
8 years ago as a bribery case, which
9 occurred in East Liberty. In January
10 of 1996, I arrested the subject and
11 he immediately told me, I don't think
12 we know this person's name to this
13 day. And he told me, immediately told
14 me, he could give us a police officer
15 who was involved in trying to buy a
16 trooper position for a friend of his.

17 The subject told us that for a
18 certain amount of money, this police
19 officer could get a person into the
20 PSP Academy. Stopping right there,
21 we don't know who he might be talking
22 about, but he goes on. The subject
23 told us the police officer was a
24 trooper named Kip Stanton. I can't
25 give you the name of the above

1 subject, as he is now a confidential
2 informant for the FBI. I did some
3 checking and verified that Kip
4 Stanton was indeed a state trooper.
5 Now, he's a state trooper. It is
6 absurd to assume that a Pennsylvania
7 State Trooper, at that level, could
8 manage the bureaucracy of the
9 Pennsylvania State Police without
10 help from above, I think you'll agree
11 with me, to get somebody into the
12 academy. Would you agree with that?
13 How could a Pennsylvania State
14 Trooper on his own get somebody
15 appointed to the State Police Academy
16 without having help internally? Is
17 that possible, that you can think of?

18 A. I don't think he can do it
19 even with help from above.

20 Q. I don't disagree with you,
21 sir. At least he's saying he can.

22 A. Not without licit help,
23 anyway.

24 Q. All right, sir. But the point
25 is, he's got to look somewhere for

1 bureaucratic or managerial help
2 somehow. He can't just --- a state
3 trooper doesn't have a right to call
4 up and appoint somebody to the
5 academy. That's only common sense;
6 right?

7 A. Not since the late '50s.

8 Q. Now, here's the next
9 paragraph. I did some checking and
10 verified that Kip Stanton was indeed
11 a state trooper. I became concerned
12 that perhaps Stanton was working
13 undercover and if that was the case,
14 there would be two agencies bumping
15 into each other. I subsequently
16 contacted Klaus Barrens (phonetic)
17 and ran this scenario by him. Who's
18 Klaus Barrens?

19 A. A retired Captain with the
20 State Police.

21 Q. And what position did he serve
22 in?

23 A. At one point, he was the
24 Director of IA, western section.

25 Q. Well, I'll tell you, you've

1 looked at the Williams --- you told
2 us you looked at this investigation;
3 right? I'm not saying you know it
4 letter crossing Ts and dotting Is,
5 but you reviewed it somewhat or some
6 of it; right?

7 A. I've read it. Yes, sir.

8 Q. Where are the references in
9 Pennsylvania State Police files
10 before this thing came up involving
11 Captain Ober about Barrens and
12 Barrens being contacted by the FBI
13 over Kip Stanton or some guy getting
14 arrested back in '96? Are there any?
15 Because I don't of any or somebody's
16 withholding information from me.

17 A. I don't know of any, sir.

18 Q. I don't either, sir. But,
19 sir, you know --- it says here,
20 according to the FBI, I subsequently
21 contacted Klaus Barrens and ran this
22 scenario by him. He checked and
23 verified that the PSP has no
24 undercover case involving our CI, and
25 this is very pregnant with meaning,

1 sir, and Trooper Stanton was not
2 working undercover. Did somebody
3 bury a file somewhere? I'm not
4 suggesting you did ---. What
5 happened? Where is --- he called and
6 checked with somebody, you told us
7 --- now, that this record is replete
8 with your descriptions of how records
9 are to be kept and files are to be
10 and things are supposed to be given
11 numbers and memos and records and
12 stuff like that. And you're not
13 alone in that. Every Pennsylvania
14 State Police Officer who's testified,
15 Mr. Brown in this case, all of you,
16 have all indicated the way
17 information is kept.

18 Now, I'd like to ask you, can
19 you give me any explanation of why
20 there is not some background
21 information about Klaus Barrens, an
22 inquiry from --- into the
23 Pennsylvania State Police by Agent
24 Kush, if Agent Kush is telling us the
25 truth. And I'm sure he'll be glad to

1 indicate to us that he's telling us
2 the truth, maybe he'll have a 302
3 laying around somewhere. But what do
4 you know about this? What can you do
5 to help me with the background when
6 we get up into 1998 and the FBI
7 contact's over? Where can you help
8 me?

9 A. I can't. I would have to have
10 Captain Klaus Barrens in here to talk
11 to him. I'd find out what it meant.

12 Q. Find out what he did, who he
13 talked to, what he said; right?

14 A. Absolutely.

15 Q. When did he retire?

16 A. I don't recall the year, but
17 it's been a couple years now. He's
18 in Western Pennsylvania. I know that
19 for a fact.

20 Q. Well, you know, I check this
21 Williams' thing, I go through this
22 Williams' --- you know, the Evanko
23 investigation, Williams'
24 investigation, Werts' investigation,
25 whatever you want to call it --- by

1 investigator name, initiator, subject
2 matter, whatever. I can't find an
3 interview with Mr. Barrens. Do you
4 know whether an interview was ever
5 done with Mr. Barrens by the
6 Pennsylvania State Police or even
7 just a request for a voluntary
8 statement, anything?

9 A. I don't know, sir.

10 Q. And the fact is and the truth
11 is, Major Conley or Colonel Conley,
12 while you were a major there, you
13 didn't know anything about this until
14 the spring of 1999; am I right?

15 A. That's correct.

16 Q. Do you know why Klaus Barrens
17 didn't get a hold of you in 1996,
18 January '96, or your predecessor,
19 maybe? It would've been your
20 predecessor.

21 A. In '96 I was someplace else,
22 why did he get a hold of my
23 predecessor and --- I don't know that
24 he did not. I think if they asked
25 him that question.

1 Q. Fair enough. He may have done
2 that. But you don't know of anything
3 in IAD files now or BPR files now, do
4 you, about Mr. Barrens and 1996 and
5 all that kind of stuff?

6 A. No, sir. I do not.

7 Q. But you do admit that if ---
8 although you don't know whether he
9 was, that if Mr. Stanton on or about
10 the year 1998 was assigned to Belle
11 Vernon that that at least would be
12 the jurisdictional area of Troop B?

13 A. That would've come under my
14 command.

15 Q. Well, that's the information I
16 have. I may be wrong, but my
17 understanding is, again, I may be
18 wrong because I can't be certain. Go
19 ahead, sir.

20 A. I'm not sure. I'm not certain
21 of that.

22 Q. I'm not certain he was
23 assigned to Belle Vernon. I thought
24 he was. I mean, that's the
25 information that I have.

1 A. Okay.

2 Q. And I got that somewhere else
3 from in that investigation. I read
4 it somewhere, but I'm not --- that's
5 my inability to pick it out for you,
6 I'm not certain. Maybe you can try
7 to find it for me.

8 A. I'll just offer this to you.
9 Troop B is made up of Findlay
10 Station, Washington Station,
11 Uniontown Station, Belle Vernon
12 Station, as well as the Waynesburg
13 Station.

14 Q. Yes. I'm familiar with the
15 Belle Vernon. It's right off of 70
16 going down there.

17 A. And the Belle Vernon station,
18 left North Belle Vernon in 1978 and
19 they moved up to 51 to the Solomon
20 Tuscovich property just south of the
21 --- across from where the Old 20
22 Church is. And the last ten years
23 they moved up to Sweeney's Corner and
24 that's where they're located.

25 Q. Great Democratic Country. I

1 know that. I'm from that area and
2 I'm familiar with a little bit of
3 that. Later on, in the --- strike
4 that.

5 Did you ever hear of a fellow
6 by the name of Doc Fielder from down
7 in Pittsburgh?

8 A. Uh-huh (yes).

9 Q. Do you know Doc Fielder?

10 A. Not personally.

11 Q. I know Doc Fielder and could
12 we agree that Doc Fielder is, among
13 other things, a political operative
14 in the Democratic Party in Pittsburgh
15 politics. Would you agree with that?

16 A. Yes.

17 Q. Colonel Conley, when did you
18 learn that Mr. Ober was going to be
19 transferred to Washington County on
20 that project out there?

21 A. I'm not sure.

22 Q. Well, didn't you communicate
23 with Colonel Evanko about that?

24 A. I wouldn't have communicated
25 with Colonel Evanko about that.

1 Q. How about Colonel Coury? Did
2 you communicate with Colonel Coury?

3 A. I could've communicated ---
4 it's more likely I would've
5 communicated with Colonel Coury.

6 Q. Do you remember communicating
7 with him some time in February, in
8 some kind of a written communication,
9 which might indicate that you have
10 knowledge that Mr. Ober was going out
11 to Washington before he was sent out
12 to Washington?

13 ATTORNEY CHRISTIE:

14 Excuse me. February of
15 what year, Counsel?

16 ATTORNEY BAILEY:

17 2000; is that correct?

18 ATTORNEY CHRISTIE:

19 February of 2000?

20 ATTORNEY BAILEY:

21 Yes, ma'am.

22 ATTORNEY CHRISTIE:

23 Before he was sent out
24 to Washington?

25 ATTORNEY BAILEY:

1 No.

2 BY ATTORNEY BAILEY:

3 Q. Here's my question, do you
4 have a recollection of communicated
5 to either Colonel Evanko or Colonel
6 Coury, you know --- when somebody's a
7 Colonel or Lieutenant Colonel, you
8 call them Colonel; right?

9 A. Yes, sir.

10 Q. So when I do that, I'm not
11 interfering in ranks, I mean, I'm not
12 mixing my ranks, just so --- maybe
13 people in the military don't know
14 that in the record. Now, anyway, do
15 you know of any kind of memos or
16 communication --- the reason I ask
17 you this is to see if you have a
18 recollection of any communication to
19 either Colonel Evanko or Colonel
20 Coury on or about February of the
21 year 2000, which would indicate that
22 you knew that Colonel Ober was going
23 to be transferred out to Washington
24 in January of 2000? That's why I
25 asked you when you knew.

1 A. Yeah, I don't know
2 specifically. Did I know that
3 Captain Ober was supposed to be
4 transferred, yes. When, I'm not
5 sure.

6 Q. Do you know how long before
7 the transfer you knew?

8 A. No, sir. Not off the top of
9 my head.

10 Q. Well, you called him at home
11 at 1600 hours, didn't you? After you
12 had met with him in the office, you
13 didn't tell him in the office. You
14 called him at 1600 hours at home and
15 told him he was being transferred;
16 didn't you, that same day?

17 A. You know, I did call Captain
18 Ober at his residence and I think I
19 did tell him that he was being
20 transferred.

21 Q. Yes, but you knew that
22 earlier, sir.

23 A. I'm not so sure I did.

24 Q. Do you have a recollection of
25 having known that earlier when he was

1 in the office and not telling him?

2 A. No, I don't.

3 Q. I know, sir, I wanted to ask
4 you. Didn't you on or about December
5 of 1998, maybe --- the date in my
6 mind, you know, I'm not the best at
7 this. I try to put these dates in my
8 mind. For some reason, December
9 16th, 28th, something like that, did
10 you have Captain Ober appointed as
11 Director of BPR temporarily? Did you
12 put him charge?

13 A. I'm sure he was in an acting
14 capacity while I was there.

15 Q. That's what I mean.

16 A. I don't know when
17 specifically.

18 Q. Why did you do that?

19 A. If I did that it was because I
20 was out of the office.

21 Q. I mean, why did you trust that
22 to him if you had these difficulties
23 or problems? Was it just that it was
24 the proper thing to do? I mean, I
25 don't want to be unfair about that.

1 I understand you're very politic
2 about not --- you explain your way of
3 commanding. I'm not here to, you
4 know, say how you're supposed to
5 handle troops and make decisions.
6 And I respect the fact that you're
7 good at doing that. I may disagree
8 with a lot of things, but my opinion
9 doesn't matter. Your reason for
10 doing things does matter.

11 And what I'm asking is I
12 understand that you had difficulties
13 with how Captain Ober was doing
14 things and you explained that to us,
15 no reason to revisit it. But I also
16 understand that during, I think it
17 was December of '98; am I correct on
18 the year? During December of '98
19 that you appointed him as the
20 temporary, you know, replacement for
21 you because of, for whatever reason
22 I'm not sure, but there's a couple
23 weeks in there or a week or two or
24 something like that. Did you do that
25 because you felt secure that he could

1 competently do that job? Is that
2 fair to say or you wouldn't have done
3 it?

4 A. Captain Ober is a Captain of
5 the Pennsylvania State Police and I
6 think he is competent, as I think
7 most of our Captains are and for me
8 to have done that is not unusual.
9 And I'm assuming that if I did that,
10 then I took time off whether it be
11 vacation or other reasons, but yeah.
12 I mean, that doesn't surprise me that
13 that occurred.

14 Q. And let me tell you my reasons
15 because, again, I'm not here to set
16 traps or be unfair to people or
17 create misimpressions. The fact is
18 ---.

19 A. I'm only going to tell you the
20 truth.

21 Q. I understand that and I
22 appreciate the fact that you're being
23 truthful. The reason I'm asking the
24 question is I understand there were
25 difficulties. It would not have been

1 out of the ordinary for you to ---
2 because it would be, you know, he had
3 been there before. It would've been
4 the proper thing to do, under the
5 circumstances, even if you had
6 difficulties with certain things.
7 You know, that would be your style.
8 You're not going to not let him do
9 it, put somebody else in there or
10 something like that or create a
11 problem. So you would appoint him to
12 that position. That is consistent
13 with your management style; is that
14 fair to say?

15 A. And if I could just answer
16 that to say not only did Captain Ober
17 have that opportunity to command the
18 Bureau when I was unavailable, but
19 Captain Skurkis as well.

20 Q. I understand that.

21 A. And we went back and forth
22 between the two captains and that's
23 normal.

24 Q. Okay. But the point is that
25 for some period of time, I understand

1 that you put Captain Ober in there.

2 A. Okay.

3 Q. I think your record is pretty
4 clear on that. We can document it,
5 no problem. But here's the question.
6 The question is, when you did that,
7 did you counsel him in what you
8 wanted him to do, what you didn't
9 want him to do or give him directions
10 as to how he was to manage affairs
11 and make decisions at that time?
12 Because of your concerns, which
13 you've already testified to.

14 A. I don't believe I did. What I
15 probably told him that I would like
16 to do --- probably told him to take
17 care of things that needed to be
18 taken care of, then get back to me on
19 the things you took care of. It's
20 kind of routine, I mean, it's not a
21 big deal there.

22 Q. All right. Now, on February
23 18th, 2000 there's a memorandum I
24 have here. Here, you may want to
25 take a look at this. Here, show that

1 to your attorney.

2 WITNESS COMPLIES

3 BY ATTORNEY BAILEY:

4 Q. Did you write that?

5 A. I recall this memo.

6 Q. Could I see it for just a
7 second? What was the purpose for
8 reassigning Captain Ober to BPR?
9 What was that about? Reassigned from
10 where?

11 A. The IIMS project.

12 Q. Well, who took him off of
13 IIMS?

14 A. I don't think anyone did take
15 him off of it. I think his
16 assignment was completed there.

17 Q. So you don't know whether he
18 was removed from that position by
19 Colonel Evanko or his just his ---
20 what was it like, his work finished
21 or something? I'm sorry.

22 A. That's my understanding.

23 Q. Well, who gave you to
24 understand that?

25 A. Well, you know what, I think

1 --- as I remember that memo there,
2 his reassignment to the Bureau was to
3 occur after his assignment at IIMS
4 was completed.

5 Q. And who told him that? Was
6 that Colonel Evanko that told him
7 that?

8 A. I don't know, but I would
9 assume that's correct.

10 Q. It would have to be, wouldn't
11 it? Colonel Evanko assigned him to
12 IIMS and did anyone ever tell you
13 that Colonel Evanko told him he'd be
14 going back to BPR or his duties were
15 done there or when or if they
16 concluded?

17 A. I think that was one of, and I
18 think I got this from Captain Ober,
19 that was one of the stipulations when
20 he took the job. That he would
21 return to IA after it was completed.

22 Q. Now, remember earlier on one
23 of my questions, you'd indicated,
24 correct me if I'm wrong, that in a
25 discussion with Colonel Coury, you

1 told Colonel Coury you didn't want
2 Ober back?

3 A. That's correct.

4 Q. Well, does that refresh your
5 recollection at all when you had the
6 conversation with Colonel Coury?

7 A. It does not.

8 Q. Well, according to this memo
9 to the Commissioner, the Commissioner
10 personally informed you in some form
11 that Captain Ober would be returning
12 to BPR. Well, let me tell you where
13 I'm coming from. If somebody says to
14 the Commissioner, I don't want that
15 man back here, maybe that was you or
16 maybe that never happened or
17 according to what we can tell, this
18 investigation --- although Mr. ---
19 Captain Ober has never been informed
20 of any adjudication that had ended
21 into the events of the fall of 1998.

22 A. That's not unusual.

23 Q. It's not unusual you tell us.
24 Okay. That he gets sent out to
25 Washington or he's told he's got to

1 go out to Washington. Now, was there
2 any discussions between you and
3 Colonel Evanko or Colonel Coury about
4 getting rid of Ober or doing
5 something to him?

6 A. I know I voiced my objection
7 to Captain Ober coming back to BPR.
8 And I don't know whether --- I voiced
9 my objection to Captain Ober coming
10 back to BPR to my boss at that time,
11 Lieutenant Colonel Coury. And
12 whether he took it to the
13 Commissioner or not, I do not know or
14 I do not recall. However, I was told
15 that the Commissioner had made a
16 commitment to Captain Ober that he
17 would return to BPR, IA and that he
18 was going to honor that commitment.

19 Q. Well, let me read this to you.
20 It says on January 7th, 2000, this is
21 about the Commissioner now, this is
22 directed to the Commissioner. This
23 is from you, the date's February
24 18th, 2000. It says on January 7th,
25 2000 you informed me that Captain

1 Ober would be reassigned to the
2 Bureau of Professional Responsibility
3 effective January 14th. After
4 discussion --- now, you know, that
5 means you and Colonel Evanko talked.

6 A. Okay.

7 Q. All right. That's what it
8 says. After discussion, comma, you
9 adjusted that date to January 24th.
10 Now, I want to read you this next
11 sentence, sir. This would return
12 Captain Ober to my command for
13 approximately five days. Well, where
14 was he going? How did you know he's
15 only coming back for five days?
16 Where was he going? Yes, sir?

17 A. I wasn't sure if you were
18 finished or not.

19 Q. I'm finished, sir.

20 A. To the best of my
21 recollection, Captain Ober was being
22 reassigned someplace else. However,
23 it was not taking effect until --- I
24 think you said the 24th? Can I see
25 the memo again?

1 Q. Yes, sir. You may see the
2 memo again, sir.

3 A. Okay. To the best of my
4 recollection, I had a conversation
5 with my boss, Lieutenant Colonel
6 Coury, and apparently, based upon
7 this memo, I also had a conversation
8 with the Commissioner. And I was
9 probably trying to reinforce my
10 efforts to not have Captain Ober
11 reassigned or returned to BPR. The
12 Commissioner overruled me. He said,
13 he's coming back because I made that
14 commitment to him. That was a
15 promise he had made to him and I'm
16 only in a position to voice my
17 opposition. I don't make that
18 decision.

19 Q. Yes, sir. He promised him so
20 he sent him back for one week.

21 A. No. What it goes on to say
22 here is that it was to be effective
23 the 14th. However, somewhere along
24 the line there's been a reassignment
25 to Ober, but it wasn't to take place

1 until after the 24th, which meant he
2 would still have to come back into
3 the Bureau. I wasn't happy about
4 that. I initiated contact with Major
5 Waugh. Major Waugh was very
6 satisfied with the work of Captain
7 Ober and he didn't want to lose him,
8 he wanted to keep him. And that was
9 fine with me. However, the
10 Commissioner had said that or made
11 that promise that Ober would go back.
12 And so I could not --- we couldn't
13 work out a deal there. I'm not done
14 yet.

15 Q. Yes, sir.

16 A. It would've been happy --- I
17 would've been elated to have let
18 Captain Ober go there, but the boss
19 has made his commitment, the boss in
20 this case the Commissioner, and he
21 fulfilled that one. Also, I talked
22 to Captain or Major Szupinka, who had
23 talked to Captain Ober, who expressed
24 his --- he didn't want to come back
25 to BPR at that point and that was

1 fine with me as well. Any
2 arrangements made after that, based
3 upon that, was between Szupinka and
4 Ober. And in talking to Major
5 Szupinka, I knew he was going to do
6 his --- everything he could for
7 Captain Ober. I know he was making
8 arrangements for an office or a
9 computer, a car, a credit card, a
10 cell phone, everything that would
11 have been commensurate with his
12 position as his XO out here. I know
13 that because we talked about it
14 specifically. We even talked about
15 letting Captain Ober report to a
16 station closer to his home,
17 McConnellsburg or someplace in Troop
18 G there --- on to his tenure with
19 Major Szupinka.

20 Q. So he could see his children
21 and his wife?

22 A. You know, none of us like to
23 be away from home, but that's just
24 part of it, you know. I've been in
25 Harrisburg, since 1993 and I've been

1 on the road since 1983, except for
2 those two years I was in Erie I got
3 to go home twice a week. Other than
4 that, you know, if you want the
5 position, you want to be a captain,
6 you want to be a lieutenant,
7 sometimes you go where the positions
8 are --- where a position --- an
9 agency's supply and demand, that's
10 all. It's what's available to you
11 and you can't always be home. I've
12 made my adjustments. I maintain an
13 apartment in the Harrisburg area up
14 there.

15 Q. Well, before you learned that
16 Captain Ober didn't tell you about
17 the FBI, you weren't screaming to get
18 him transferred out of the Bureau,
19 were you?

20 A. Do you know what? I was not
21 and I think I was --- it's a period
22 of adjustment and I knew when I was
23 going in there that it would be a
24 period of adjustment, you know. As
25 we went along, little things kept

1 coming up and you start --- which
2 gets your attention and you say,
3 well, you know, I'm not sure this is
4 going to be a good relationship or
5 not. I'm certain and I can assure
6 you that part of what came out of
7 that influenced my decision not to
8 want him back because obviously he
9 didn't trust me, so why should I
10 trust him? He showed his distrust
11 for me.

12 Q. Well, my question is, until he
13 had showed his distrust of you,
14 that's your view, by not telling you
15 about the FBI, you weren't out to get
16 him transferred out of the Bureau.
17 You may not have been happy with
18 certain things, but you weren't out
19 to get him transferred out or denied
20 an opportunity to serve in the Bureau
21 of Professional Responsibility; is
22 that fair to say?

23 A. Not yet. Yeah, and I want to
24 be fair about this, you know, because
25 I have to get --- I think Captain

1 Ober is a bright individual. I think
2 he could be an asset, you know ---.
3 So I have to have an opportunity to
4 evaluate that and I don't think in
5 that short period of time I could
6 have come to that quick conclusion,
7 you know but --- we're like
8 everything else, you know, we'll
9 prove ourself to people one way or
10 the other, you know, whether we want
11 to be there, whether we want to work
12 with you, but we're going to have do
13 things our way.

14 Q. I know. You explained many,
15 many times that he wanted to do
16 things his own way. I understand
17 that. I'd like to ask ---.

18 A. I wasn't finished, sir.

19 Q. Oh, I'm sorry.

20 A. And I don't mean to be ---
21 it's just that he was headed --- I
22 mean, you could see it. How we got
23 to this way, got into this location,
24 I don't know, but you could see it
25 headed down that particular path, you

1 know. Was this the camel that broke
2 --- was this the straw that broke the
3 camel's back, perhaps it was.
4 Would've it got longer had I not
5 opposed, I don't know. I didn't give
6 him a long leash, you know --- and
7 I'll only tell you that that's not
8 unusual. I've done that in the
9 troops I've commanded and in dealing
10 with people, you know ---.

11 See, you've got to give people
12 an opportunity to know you as a
13 commander and sometimes they'll come
14 around, sometimes they won't. At the
15 time that Captain Ober left the
16 Bureau, he had only been there --- we
17 had only worked together for a couple
18 of months, before we really got where
19 we needed to be and he had --- and
20 I'm not done yet. And so I knew when
21 I didn't know him, you know, and I
22 can only tell you why he was over
23 there in IIMS though, he still kept
24 his fingers in the till, if you
25 would, at the IA at the time of the

1 acting director. He stepped back and
2 still wanted to command, although he
3 was over here doing something totally
4 different.

5 Q. Well, you haven't been able to
6 give me any rules that he violated
7 ---. Let me ask it this way. You
8 know whether he made the original
9 error, whether it was an error or
10 not, and I want to ask you about
11 that, give you a chance to expound on
12 that. In not telling you about the
13 FBI and telling Lieutenant Colonel
14 Hickes, remember that? Remember that
15 he did that? Remember he went to
16 Lieutenant Colonel Hickes; right?
17 You know that, don't you?

18 A. I'm aware that occurred, yes.

19 Q. Sure. And Lieutenant Colonel
20 Hickes ordered him not to say
21 anything to anybody. Do you remember
22 that?

23 A. I've heard that occurred, yes.

24 Q. Okay. What was he supposed to
25 do? Was he supposed to come to you

1 after Lieutenant Colonel Hickes told
2 him that he's not supposed to do
3 anything?

4 A. Why didn't he come to me in
5 the first place?

6 Q. Well, sir, you know, we've
7 talked about that and you've
8 commented on it many times and you
9 can comment on it again.

10 A. No, you and I have not talked
11 about that.

12 Q. Now, let's not argue about it.

13 A. I don't mean to be
14 argumentative, but you don't put
15 words in my mouth either.

16 Q. No. Look, sir, I don't put
17 words in anybody's mouth. I run the
18 fairest deposition of any lawyer I
19 have ever known.

20 A. Okay.

21 Q. You are being treated no
22 differently than anyone else. I
23 don't put words in anybody's mouth.
24 All right. Now, let me go back and
25 revisit this. You know, I have my

1 style of doing a deposition. We have
2 talked, in my view, without ever
3 mentioning the order of Lieutenant
4 Colonel Hickes, to great lengths
5 about how Captain Ober didn't tell
6 you he got this call from Lieutenant
7 Colonel Coury, apparently he didn't
8 tell Lieutenant Colonel --- that
9 looks like a terrific sandwich. The
10 ones over here in this vending
11 machine look ---. Now, anyway, and I
12 want to give you a chance to explain
13 that. Now, admittedly, I think we've
14 --- what I meant was, I'm not trying
15 to put words in your mouth, is that
16 it's very, very clear that in your
17 view of Captain Ober, that you
18 should've been the first person that
19 he sought out before he went to
20 anyone else; is that fair to say?

21 A. Yes, sir.

22 Q. And the reason for that is
23 because you were in his direct chain
24 of command and you were the Bureau
25 director?

1 A. Yes, sir.

2 Q. And you had been assigned to
3 that position on October 2nd and
4 sometime on or about October 5th, I
5 believe it is, he goes to --- is it
6 October 5 Colonel Hickes? Sometime
7 about October 5 and --- I mean, you
8 can add to if you want to, but it's
9 clear that you feel that what he did
10 was wrong. I mean, the bottom line
11 is what he did was wrong, in your
12 view; correct?

13 A. Yes, sir.

14 Q. All right. He has explained
15 it as best he can. It is a major
16 issue in this case, clearly, but I
17 now know what to go to the second
18 part of that question. He, at some
19 point, goes to Lieutenant Colonel
20 Hickes, we believe it's around
21 October 5th, and Lieutenant Colonel
22 Hickes tells him, you are --- now,
23 Lieutenant Colonel Hickes, I believe,
24 has already told the Commissioner
25 this. I mean, there's no secret

1 about this. I don't think anybody
2 disagrees with it. He says to
3 Captain Ober, you don't say a word to
4 anybody. Ober, I believe would tell
5 you, that he feels a great load come
6 off of his chest, he is not carrying
7 this burden and it's a problem for
8 him because he doesn't --- according
9 to him, now, rightfully or
10 wrongfully, he doesn't know where to
11 go or who to tell or what to do.
12 Okay. But he goes to where he feels
13 most comfortable and he can describe,
14 you know --- he can testify and has
15 to his own reasons. Now, all I'm
16 saying is, did you become angry at
17 Colonel Hickes about his order?
18 A. I think Colonel Hickes' order
19 was inappropriate and I've told him
20 that.
21 Q. All right, sir. When did you
22 tell him about it?
23 A. Oh, on a couple different
24 occasions. I can't say specifically
25 when.

1 Q. Can you tell me what you said
2 to him?

3 A. I told him I disagreed with
4 his thoughts, that he would do that,
5 that that occurred.

6 Q. Did he tell you why he did
7 that? Sir, can you keep your voice
8 up just a wee little tiny bit?

9 A. I'm sorry.

10 Q. That's all right. Did
11 Lieutenant Colonel Hickes tell you
12 why he gave Captain Ober that order?

13 A. He gave me a reason. I don't
14 recall what it was or how it was
15 versed specifically. But basically,
16 what he did tell me was, he didn't
17 believe this was true either. And he
18 thought he would just let it run its
19 course and it would be okay.

20 Q. Well, if it helps, I'm not so
21 sure --- I don't think Captain Ober
22 thought it was true, either. And I'm
23 not so sure that's ever been the
24 issue. All I want to ask you is, did
25 --- I'm sorry.

1 A. I'm just telling you what he
2 told me. That's what he told me,
3 that's all.

4 Q. And I appreciate that. I'm
5 sorry ma'am. Okay. Now, I very much
6 appreciate that and that's a separate
7 question, you know, what people
8 believed or did not believe. And I
9 really do not think that --- I can
10 honestly say to you, I don't think
11 Captain Ober ever, in his heart of
12 hearts, believed that, you know ---.
13 But that's not the point, what he
14 believed. The point is what you do
15 and the procedures you follow, et
16 cetera. Now, my --- well, that's the
17 way I see it. That's what the law's
18 about, to be as objective as
19 possible, to follow rules. And I say
20 that because I don't know --- did you
21 ever recommend a disciplinary action
22 against Captain Ober over the issue
23 of not telling you?

24 A. No.

25 Q. Why not?

1 A. I don't know that I was given
2 that opportunity when it came to me.

3 Q. You have a right to file a
4 complaint. You told us how the
5 process works. Why didn't you?

6 A. Sure. In the other issue, the
7 other side of the coin is Captain
8 Ober, excuse the pun, was out of my
9 hair.

10 Q. Pun is accepted. Good sense
11 of humor, thank you. Getting there
12 myself now.

13 A. And so you kind of let things
14 go on, you know ---. And it's just
15 like this, you know, am I happy with
16 Captain Ober and the way he handled
17 things, did this, no, but he's been
18 --- he'll be in State Police for a
19 long time. I get over things after a
20 while and once you discipline
21 someone, how long do you hold that
22 against them, you know? The key here
23 was that the situation kind of
24 resolved itself. He wanted to be
25 over in IIMS, he was away from the IA

1 then, for the most part. I mean, he
2 did touch back from time to time.
3 And no, I didn't pursue that issue
4 after that.

5 Q. You prided yourself a number
6 of times in giving truthful answers;
7 is that right?

8 A. Well, it's not that I pride
9 myself in it, I think that's what
10 it's all about being a law
11 enforcement officer.

12 Q. The truth, in fact, is it
13 resolved itself because he got
14 punished; isn't it? Because he got
15 transferred, against his will, to
16 Washington County, he prevailed in
17 that disagreement. No matter how
18 anybody wants to term it, he
19 prevailed and his career is now dead-
20 ended. He was assigned to a
21 lieutenant's position. The fact is,
22 he's been punished. He's been made
23 to pay, hasn't he, for his sin, his
24 blunder, his error? Isn't that the
25 truth, Colonel? I mean, as we sit

1 here today, isn't that the truth?

2 A. I don't agree with your
3 commentary. I really don't.

4 Q. I respect your disagreement.

5 A. And I can tell you why I
6 disagree with it. I mean, I could
7 give you some thoughts of it anyway.

8 Q. Sure. Tell me why you
9 disagree with it.

10 A. He hasn't lost any money, that
11 I'm aware of. He hasn't even lost
12 any time, that I'm aware of. He's
13 still performing at the rank of a
14 captain in the Pennsylvania State
15 Police. And did he perform a
16 function that we needed done,
17 absolutely. Was he assigned the rank
18 of a captain at the moment, no, but
19 as soon as a captain's position was
20 available, he was given that
21 position. I mean, it's not the first
22 time that's occurred, I'm sure.

23 Q. Do you know what I brought out
24 here with me? Did you ever see this
25 memorandum written by the Honorable

1 William J. Caldwell --- William W.
2 Caldwell, United States District
3 Judge? Did you ever read the Judge's
4 opinion? If you haven't, I'm not
5 going to bother you with it.

6 A. No. I don't recall. I don't
7 think I have.

8 Q. Do you think what you have
9 just stated and recounted for me is
10 what you understand the law to be
11 governing civil rights violations of
12 public officials when they are
13 involved in matters of public concern
14 and express themselves?

15 A. I know I'm not an expert in
16 law, in civil matters.

17 Q. I'm not so sure. It sounded
18 awfully good to me. But the point
19 is, I guess, that there's a Federal
20 Judge, who rightfully or wrongfully,
21 properly or improperly, however, is
22 going to decide the issues of whether
23 or not his rights were violated. I
24 didn't mean to ask you that. I
25 didn't mean to ask you what the law

1 says because what I think about the
2 law, what your attorney thinks about
3 the law, what you think about the
4 law, don't really matter. The court
5 will make the law decisions. I'm
6 asking you whether or not you
7 believe, based on your knowledge and
8 experience, that Darrell Ober, good
9 or bad guy, mixture of, you know,
10 human frailties and strengths that he
11 carries like all of us, whether you
12 think he's paid a price for his act
13 of disloyalty or error or mistake,
14 whatever you'd want to call it. Do
15 you think he's paid a price for that?
16 A. I do not believe Captain
17 Ober's been disciplined.
18 Q. Okay. So you think the
19 transfer to Washington was proper and
20 okay, against his will?
21 A. Certainly within regulations.
22 Q. Okay. Well, why do you think
23 it eventually resolved itself in his
24 favor? Do you know why?
25 A. No, sir, I do not.

1 ATTORNEY CHRISTIE:

2 Objection. What
3 resolved itself in what favor?
4 The Court did not resolve
5 itself in anybody's favor.
6 The transfer order was
7 rescinded again for the
8 record, and the parties agreed
9 to keep Captain Ober in the
10 Harrisburg area. That's my
11 recollection. So if you're
12 saying it resolved in his
13 favor, implying that the Court
14 resolved it in his favor,
15 that's not an accurate
16 statement for what happened.

17 With regard to
18 resolving anything in anyone's
19 favor, to my recollection, if
20 I'm not mistaken, I believe
21 the litigation that was
22 ultimately resolved by the
23 Court was resolved in the
24 Department's favor or in the
25 Defendant's favor. Just to

1 clarify for the record.

2 BY ATTORNEY BAILEY:

3 Q. Are you familiar with the
4 phrase, discretion is the better part
5 of valor?

6 A. Yes, sir. I've heard that
7 before.

8 Q. I just was curious. Captain
9 Ober didn't go to Washington? He
10 didn't get transferred out there?

11 A. I don't think Captain Ober
12 ever reported to Area Three
13 Commander.

14 Q. Okay. What did he do next?

15 A. I'm not sure what he did next.
16 I know he eventually ended up with
17 the Bureau of Liquor Control
18 Enforcement.

19 Q. And as a Lieutenant Colonel in
20 the Pennsylvania State Police doing
21 your deposition here, it's your
22 testimony that to the best of your
23 knowledge and belief, the way that
24 Captain Ober has been
25 administratively handled by the

1 Pennsylvania State Police has been
2 above board, honest, in accordance
3 with regulation in the best interest
4 of the Pennsylvania State Police and
5 Captain Ober; right? Right? So if
6 you get an opportunity to tell a
7 jury, you'll testify to that because
8 you believe all of this has been just
9 and proper and right; is that fair to
10 say? Tell us.

11 A. I just want to make sure I got
12 everything in my mind, that's all.

13 Q. Sure. Go ahead.

14 A. The short answer is yes.

15 Q. Okay. That's the best to
16 conclude depositions, get them
17 wrapped up, with short answers. Now,
18 I want to show you a memo --- or
19 excuse me, it looks like an e-mail,
20 but I think the top has been changed
21 a little bit. By the way, do you use
22 an autopen in your work?

23 A. Me, personally?

24 Q. Yes.

25 A. No, sir.

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1 Q. Do you know how long it takes
2 the ink to dry on one of those?

3 A. No, sir.

4 Q. Just curious. Will you take a
5 look at this?

6 WITNESS COMPLIES

7 BY ATTORNEY BAILEY:

8 Q. Do you know who Mark Campbell
9 is?

10 A. I'm not finished reading this
11 through.

12 Q. Oh, I'm sorry. I'm sorry.

13 A. I just don't read as quickly
14 as some folks, that's all.

15 Q. No, sir. It wasn't that, you
16 know, the trouble --- I'm only
17 interested in one little sentence in
18 there and it didn't occur to me that
19 you should want to look at the whole
20 document. And I apologize to you.
21 I'm in error.

22 WITNESS REVIEWS DOCUMENT

23 A. Yes, sir.

24 BY ATTORNEY BAILEY:

25 Q. Okay. You read part way down

1 the middle of that e-mail, that's an
2 e-mail that was provided to us in
3 response to a document request that
4 was provided by Colonel Evanko.

5 There's a sentence that says ---
6 who's that e-mail to?

7 A. It's to M. Campbell at
8 State.Pa.Us.

9 Q. Okay. Read the thing down
10 there, the reference to Captain Ober.
11 Would you, please?

12 A. I am transferring Captain
13 Darrell Ober, effective January ---
14 I'm sorry, 28 January '00.

15 Q. Okay. Do you know anything
16 about that?

17 A. I know it occurred or was
18 supposed to occur.

19 Q. The transfer?

20 A. I don't think it ever did
21 occur.

22 Q. What's the date of that memo,
23 do you know --- or that e-mail?

24 A. I don't see a date on here,
25 sir.

1 Q. Can I see that for just a
2 minute?

3 A. Uh-huh (yes).

4 Q. There are a number of
5 references in here. It says, for
6 example, Major Virginia Smith-Elliott,
7 (phonetic) my EEOC officers are
8 retiring in April. I'm downgrading
9 that position, et cetera. Up above
10 here it says, Mark, for your
11 information, last night we had
12 another shooting. This time in
13 Emporium. Do you remember when that
14 happened?

15 A. No, sir, not off the top of my
16 head.

17 Q. Well, I've been doing some
18 checking and it says again, a
19 domestic abuse complaint with the
20 subject because you know, this
21 document, it doesn't have a date on.
22 And all the other documents I got
23 have dates on them. This one doesn't
24 have a date. But this does say, M.
25 Campbell at State.Pa.Us. Isn't that

1 the state, the capital e-mail? I
2 mean the government's ---?

3 A. That's the State Government.

4 Q. Yes, it is. Do you know Mark
5 Campbell?

6 A. Yes.

7 Q. When did you last talk to Mark
8 Campbell?

9 A. I don't recall specifically,
10 but it's been a couple months
11 probably.

12 Q. Did you ever talk to Mark
13 Campbell about Captain Ober?

14 A. Never.

15 Q. Never mentioned his name?

16 A. Never.

17 Q. Well, let's shift gears then
18 and let's --- I want to talk, focus
19 on any conversations you had with
20 Commissioner Evanko about Darrell
21 Ober, okay? Now, I asked you earlier
22 about a meeting over in the front
23 office sometime where Captain Ober
24 was discussed. And I think your
25 indication was that you didn't

1 recollect such a meeting; is that
2 correct? Or was there a meeting?

3 A. Well, you know, I may have
4 said that, but since I've said that
5 --- obviously, by this memo here,
6 I've had some discussion with the
7 Colonel about not wanting Ober back.
8 So there has been some meeting and
9 I'm assuming that is what it's about,
10 his not returning to BPR.

11 Q. Let's go back to May of the
12 year 1999; okay?

13 A. Okay.

14 Q. Do you remember any meeting
15 that you attended where Captain Ober
16 and, let's refer to it as his
17 untimely giving of information to the
18 Commissioner, about the FBI probe,
19 inquiry, FBI inquiry? Did you have a
20 meeting to discuss that sometime on
21 or about May of 1999 in which the
22 Commissioner was present and you were
23 present?

24 A. No.

25 Q. Did you have a meeting over in

1 the front office in which Colonel
2 Coury was present and you were
3 present where you discussed Captain
4 Ober?

5 A. No, sir.

6 Q. Okay.

7 A. Let me just rephrase that.
8 I'm sure I've had some conversation
9 with Colonel Coury concerning Captain
10 Ober. Exactly when, I don't know,
11 but I know it didn't occur in May.

12 Q. How about June?

13 A. Maybe something in June.

14 Q. Well, did you have a
15 discussion with the Commissioner in
16 June about Captain Ober?

17 A. I don't recall discussing
18 Captain Ober with the Commissioner.

19 Q. At any time before this
20 transfer thing came up?

21 A. Obviously, we had a
22 conversation based upon this note and
23 I don't even know when this is. It
24 says somewhere around January 7th we
25 had that, and that would've been the

1 year 2000. Whether we mentioned
2 Captain Ober's name during 1999, I'm
3 sure we did, as for recalling
4 specific meetings.

5 Q. Now, did you have any meetings
6 with Captain Brown in 1999, let's say
7 between May and July, about Captain
8 Ober?

9 A. I'm sure I did.

10 Q. What did you discuss at those
11 meetings?

12 A. I don't know.

13 Q. Well, you had the interview
14 with Major Williams. We know that;
15 right?

16 A. Yes, sir.

17 Q. And that was in June. In
18 fact, it was --- I don't have it in
19 front of me, but it was June 8th of
20 1999.

21 A. Okay.

22 Q. Now, who was present during
23 that interview with Mr. Williams?
24 Just you and Mr. Williams?

25 A. No. Major Werts was present.

1 If you had the front page of this, it
2 would probably tell you who else. I
3 don't recall who else was there. I
4 know the two of them were there. I
5 don't know if anyone else was there.

6 Q. Were you read your rights?

7 A. Miranda warning?

8 Q. Any kind of warnings,
9 administrative, criminal, non-
10 criminal, whatever. I don't know,
11 any rights.

12 A. I don't recall being given any
13 type of rights.

14 Q. You can't recollect any reason
15 to ask you what your rights would've
16 been? There's no reason to read
17 rights to you; right?

18 A. We give Miranda warnings in
19 criminal cases. We want to make sure
20 an individual's telling us the truth.
21 Or if we suspect he may or may not
22 tell us the truth, we give them the
23 Garrity warnings.

24 Q. What are the Garrity warnings
25 about?

1 A. It's a notice or a flag to an
2 employee that's about to be
3 interviewed that the employer has a
4 right to know and that you should
5 tell them the truth. And that if you
6 should give up some type of criminal
7 information during that time, that
8 will not be used against you, but
9 you're being compelled to cooperate
10 in an investigation or an inquiry.

11 Q. I think there was some
12 testimony over there about Mr. Kush.
13 Can I have that back?

14 ATTORNEY CHRISTIE:

15 I don't think you
16 handed that over, Counsel. I
17 think you read from it. We
18 only have the page four and
19 five of Colonel Conley's
20 interview, it's the 6/8/99
21 interview.

22 BY ATTORNEY BAILEY:

23 Q. If I told you that Mr.
24 Williams talked to Ralph Kush on May
25 25th, 1999, do you have any reason to

1 doubt that?

2 A. No, sir.

3 Q. Did Mr. Williams ever ask you
4 at any time if Kip Stanton was in
5 your chain of command?

6 A. I don't recall that question.

7 Q. Well, do you know why a has-
8 been, broken down hack of an old
9 lawyer like me would think of that
10 question when I see this and Major
11 Williams did not?

12 A. No, sir.

13 Q. Well, if there was an
14 investigation into the events,
15 justifications and reasons, whatever
16 they might be, about why Captain Ober
17 didn't tell you, which seems to be a
18 major complaint with the Commissioner
19 here, or the Commissioner or Colonel
20 Coury or somebody. Why wasn't that
21 explored in the investigation, do you
22 know? Why wasn't that question asked
23 about it?

24 A. I don't know.

25 Q. And if Mr. Williams had a

1 question, it's not that he doubts.
2 He's an investigator. It has nothing
3 to do with his personal feelings.
4 Shouldn't he have read your rights
5 and just asked you, did you know
6 anything about what Kip Stanton was
7 doing?

8 A. I'm sorry ---.

9 Q. Not the question, you were
10 just talking about the procedures an
11 investigator should follow. Don't
12 you believe that Mr. Williams
13 should've read you your rights and
14 asked you, based upon what Mr. Kush
15 told Mr. Williams on May 25th, 1999,
16 before he interviewed you on June
17 28th, 1999, that he should've read
18 you your rights and asked you if you
19 knew anything about what Mr. Stanton,
20 sir, had been doing earlier and
21 whether or not Mr. Barrens had
22 informed you of what Mr. Stanton had
23 been doing earlier?

24 I know that you didn't know
25 anything about that. I believe you

1 1,000 percent. I'm just asking,
2 don't you believe that would've been
3 a proper procedure for Mr. Williams
4 to ask if he is investigating what
5 happened in the fall of 1998 and the
6 quality of that investigation and the
7 reason for Captain Ober's actions?
8 Wouldn't that have been a decent
9 question to ask?

10 A. Not necessarily.

11 Q. Okay. Why not?

12 A. You went two different places
13 there. At the very end, you changed
14 up there. I think you started off
15 that saying, why wasn't I given my
16 rights and then you, at the very end,
17 you ask why not --- why he didn't do
18 something, why he didn't ask a
19 specific question.

20 Q. Let me clarify that.

21 A. Sure.

22 ATTORNEY CHRISTIE:

23 Could the Colonel just
24 finish his answer before we
25 get another question, Counsel,

1 because I think he's trying to
2 answer at least part of your
3 question.

4 A. I do not know why Major
5 Williams did not ask that question,
6 whoever. And it's not necessary that
7 he give each and every person, in
8 this case, it would be the Garrity
9 warnings, during the course of an
10 investigation. I can only tell you
11 that it's only become routine in
12 recent years that that's given
13 routinely. In past years, we only
14 gave that if we seen an opportunity
15 --- well, not an opportunity, but we
16 see that an individual may or may not
17 be truthful or we want to put him on
18 notice that you need to be truthful
19 in that particular response.

20 You know, there is a portion
21 or section of our field regulations
22 that tells you, you shall cooperate
23 with State Police internal
24 investigations. Okay. And so it
25 doesn't have to be given the Garrity

1 warning. And I've done
2 investigations where I've interviewed
3 people and not given the Garrity
4 warning. If it would become obvious
5 that this guy was not being truthful
6 or he may be taking something in the
7 wrong path and I'd say time out.
8 Let's take a minute, you know, you
9 have an obligation to be truthful
10 here. And this is --- I'm going to
11 read this to you and I'm going to
12 have this witnessed by your
13 representative that I've given this
14 to you because subsequent to this, if
15 you're not truthful, we might bring
16 discipline if you're not being
17 truthful. But we, the employer, at
18 that point I represent the employer,
19 have a right to know. I don't know
20 why Major Williams, at that time, did
21 not ask that question. I just don't
22 have a clue why he didn't do that.

23 BY ATTORNEY BAILEY:

24 Q. Well, you told us earlier that
25 the investigation, as you understood

1 it, was not --- now, this was your
2 response, you correct me if I'm
3 wrong, was not into Captain Ober.

4 A. That's true.

5 Q. Then why was he read his
6 rights?

7 A. Well, I guess the --- well,
8 the obvious answer is they wanted to
9 make sure that he had to tell the
10 truth.

11 Q. Did they have some reason to
12 believe that he wouldn't tell the
13 truth?

14 A. I don't know.

15 Q. Well, my question to you was
16 because you reviewed this
17 investigation, was a very simple one.
18 Knowing what you know today, wouldn't
19 it have been proper if he wanted to
20 know what went into these
21 circumstances, if he was looking for
22 Captain Ober's reasons, wouldn't it
23 have been proper for him to read you
24 your rights and ask you if you knew
25 anything about Kip Stanton, who was,

1 I may be mistaken again, but who was,
2 I believe, in your command at some
3 relevant time?

4 A. Not necessarily.

5 Q. What was the date of your
6 interview? June 26th? Colonel, let
7 me just double-check something quick.
8 What is the date of your interview
9 there?

10 A. June 8th, '99.

11 Q. June 8th. Okay. So you had
12 the interview on May 25th with Mr.
13 Kush. The interview with you, I had
14 said June 28th earlier, I was wrong.
15 That was the date of --- I knew it
16 was afterwards, but I was wrong on my
17 dates. June 8th would've been the
18 interview with you and then June 28th
19 would be the interview with Captain
20 Ober. Has there been any question at
21 all in any of this, known to you,
22 which would indicate in any way that
23 Captain Ober had done something of a
24 criminal nature? I realize that he
25 didn't do what you felt he should've

1 done as --- allow the chain of
2 command and State Police customs and
3 practices, but what about the issue
4 of criminal misconduct. Do you know
5 of anything that implicates in any of
6 this that would indicate that Captain
7 Ober had done anything of a criminal
8 nature?

9 A. I'm not aware of anything if
10 he did anything criminal.

11 Q. How many other investigations
12 of the type that the Commissioner
13 ordered in this case are you familiar
14 with? How many other times do you
15 know that that's happened?

16 A. Well, it's occurred several
17 times.

18 Q. Give me some idea when.

19 A. When the Colonel wants answers
20 to issues --- do you want specific
21 incidents?

22 Q. Sure.

23 A. I can't give you specific
24 incidents off the top of my head.

25 Q. Can't give me any?

1 A. But I know it has occurred in
2 the past.

3 Q. And that would be consistent
4 with your viewpoint that this was not
5 into Captain Ober, this was into the
6 facts of what occurred in the fall of
7 '98; right?

8 A. Yes, sir.

9 Q. Now, do you know whether
10 anyone else in the Pennsylvania State
11 Police were read their rights by Mr.
12 Williams and Mr. Werts?

13 A. You say rights, you're
14 referring to the Garrity warnings?

15 Q. I guess, yes. The Garrity
16 rights, I'm sorry. Yes, I guess
17 that's what they were.

18 A. I don't know.

19 Q. Do you know Major Merryman?
20 You know him don't you?

21 A. Yes.

22 Q. Impresses me as a pretty fine
23 State Police Officer. You'd agree
24 with that; right?

25 A. I don't disagree with that.

1 Q. Do you know if he was read his
2 rights in any of this?

3 A. I don't know.

4 Q. Did you ever read people their
5 rights to intimidate them, you know,
6 to scare them, to put them off guard
7 or scare them? Use it as an
8 investigative tool?

9 A. I've never used it in that
10 method.

11 Q. It's not right, is it? It's
12 not proper to do things that way, is
13 it?

14 A. Well, that's not true.

15 Q. Oh, it's not?

16 A. Let me back up. I guess your
17 question is it's not correct to knock
18 them off guard or intimidate them, is
19 that what you're saying? Or it's not
20 right to read them the rights each
21 time? You probably need to clarify
22 that for me so before I answer that
23 question ---.

24 Q. Well, okay, you don't know the
25 circumstances under which Major

1 Merryman was read his rights; right?

2 A. Okay. Just so I'm clear in
3 the future, every time you say
4 rights, you're talking about Garrity
5 warning?

6 Q. Yes. I don't know of anybody
7 in this case that was read their
8 Miranda Rights, but, I mean, the idea
9 behind a Garrity right is to say that
10 if you say something that could be
11 criminally used against you, you
12 know, we can't use it against you.
13 But as an employer, we have a right
14 to question you.

15 So the Fifth Amendment has got
16 to take a back seat here because the
17 rights of property come first. So in
18 America, the rights of property are
19 more important than anything else.
20 So an individual's rights against
21 self-incrimination take a back seat.
22 And you come in and you say to the
23 person, you have to answer. I'm your
24 employer, I want to check into
25 something here and there's a criminal

1 violation we can't use it against
2 you, but I'm going to, you know ---
3 see, I'm searching for why he was
4 read his Garrity rights and I don't
5 know why. I can't understand why.
6 And I have a tendency to think that a
7 Federal Judge may ask why. And I'm
8 curious if you know why he was read
9 his Garrity rights and why you
10 weren't in this investigation into
11 the facts, into the facts. Not into
12 the person Darrell Ober, you told us,
13 into the facts about the fall of
14 1998. I want to know why Colonel
15 Conley was not read his Garrity
16 rights, but Captain Darrell G. Ober
17 was because I don't know why and I'm
18 hoping you can help me.

19 A. I guess my question is, was I
20 given the Garrity warning because I
21 just don't recall?

22 Q. I don't think you were, but
23 I'm curious ---.

24 A. I don't recall, sir. I really
25 don't.

1 Q. Do you know of any suspicion
2 of criminal misconduct in any of this
3 on behalf of Captain Darrell G. Ober
4 that you can tell me of?

5 A. I'm unaware of any criminal
6 conduct on the part of Captain Ober.

7 Q. No implications that you can
8 think of in that regard? I can't
9 think of any, I'm being honest with
10 you, but you don't know of any?

11 A. No. And if that goes to ---
12 again, where are you going with this?
13 If that goes to being given an
14 administrative warning, it's not to
15 waive any immunity to any criminal
16 allegations, it's to only put the
17 individual on notice because a lot of
18 our folks do not know that they must
19 and they're required to cooperate
20 with internal investigations
21 completely and honestly. That's why
22 we use the Garrity warning primarily.
23 I mean, it's not to say, if you've
24 got some criminal hanging over here,
25 we'll give immunity to that. But

1 we're saying that, hey, this is an
2 agency and the employer has a right
3 to know and we're putting you on
4 notice that if you don't give us this
5 information, you're going to have a
6 problem with someone lying. That's
7 what the purpose of giving that
8 within the State Police.

9 Q. So, for that reason, two
10 majors in the Pennsylvania State
11 Police needed to read Garrity
12 warnings to a past Director of IAD,
13 who, according to you, was the author
14 of the concept of supervisory
15 inquiries, which are used by the
16 Pennsylvania State Police to this
17 very day, which you thought was a
18 good idea. So Darrell G. Ober had to
19 be told of the consequences and
20 notice. I mean, he couldn't sit down
21 and say, okay Colonel Evanko wants us
22 to check into this and we want a
23 statement from you, can we record it,
24 what happened, let us question you?

25 A. Well, I think any time you

1 shorten the disciplinary process,
2 that's a good process. I can tell
3 you that we have not adopted the
4 supervisory inquiry into our
5 regulation. As of this point they're
6 still being used to some extent here.

7 Q. I didn't mean to go there, but
8 that's okay.

9 A. Well, I didn't know. I
10 thought you were going there. I
11 didn't know. I thought I'd give it
12 to you.

13 Q. I know. No, I appreciate what
14 you're saying. Now, Captain Ober's
15 supposed to come back, according to
16 the memo in front of you there by
17 virtue of the orders of the
18 Commissioner, on January 24th, 2000;
19 right?

20 A. That's the date of his
21 transfer, the 24th.

22 Q. And according to this memo, if
23 it's correct, that you read here, I
24 mean, all you know he didn't go out
25 there?

1 command for approximately five days
2 and that would be January 24th. He's
3 coming back to the Bureau on the 24th
4 and then five days after that he
5 would be transferred out, which would
6 be the 28th or the 29th.

7 Q. I don't mean to offend with
8 this question. I mean, I really
9 don't mean to offend. I just want to
10 be my real old common self when I ask
11 this question. Isn't that just
12 jerking him around? Is that
13 vindictive or mean or what's the
14 purpose? Can you give me an
15 administrative purpose for that?

16 A. For?

17 Q. Can you tell me why Colonel
18 Evanko, against your recommendation,
19 we've established that, you've
20 testified to it, would be saying, no,
21 he's coming there for four days? Why
22 would you do that? What's the reason
23 for it? If you don't know the
24 reason, could you give me --- now,
25 you're a very experienced officer

1 with a lot of knowledge of these
2 things, you've controlled troops and
3 stuff like that. Can you tell me
4 what administrative reason there
5 would be for doing that?

6 A. If the Colonel felt, and I
7 don't mean to speak for him.

8 Q. No, sir. He'll have a chance
9 to testify, you go ahead.

10 A. But we spoke and we spoke
11 about this. And the Colonel made
12 Captain Ober a promise he would come
13 back. So he was fulfilling that
14 promise, that obligation. I'm sure
15 Captain Ober could've released him of
16 that, but I don't know that he did or
17 did not or even approached the issue
18 with him. The only reason that I
19 found out that Captain Ober didn't
20 want to come back to the Bureau was
21 after I talked to Waugh and Szupinka.
22 I mean, he wanted to come back to the
23 Bureau. That's where he saw his
24 niche, where he wanted to be anyway,
25 at this time in history. It's not

1 unusual for the Colonel not to do
2 what I ask, either, you know ---. I
3 just get to ask the question or
4 request it.

5 Q. Well, why couldn't or wouldn't
6 Colonel Evanko just call Captain Ober
7 up and say, Captain, I have a job I
8 want you to do for me, you're a great
9 officer, I believe in you the way I
10 do the rest of my troops and I need
11 your help, I want you to do something
12 here and I'd like you to go out there
13 and do this job for me? Now, that's
14 the way to do it, isn't it? That's
15 the way you'd do it, isn't it, if you
16 wanted somebody to do some task for
17 you? I'm not saying you'd lay all
18 that kind of stuff on them, but, you
19 know, you might call up and say I
20 need you to do something, I'd like
21 you to go do this duty, I'd like to
22 transfer you to this or sign you to
23 that, you know ---. Would you
24 consider doing that? Or if you felt
25 strongly enough, certainly you could

1 order them, I guess. I don't know.

2 But why wouldn't, you know ---
3 you're the one that informed Darrel
4 G. Ober at four o'clock in the
5 afternoon, after you talked with him
6 earlier in the day, that he was going
7 out to Washington; right? You told
8 us that you're the guy that called
9 him and told him; right?

10 A. I assumed, only because you're
11 saying that, I don't think it was the
12 same day.

13 Q. Well, let's assume that it
14 wasn't the same day, but ---.

15 A. I am the one who called
16 Captain Ober and reported that he
17 would be transferred.

18 Q. Okay. Fair enough, sir. You
19 called him and you told him he's
20 being transferred. Until the Colonel
21 told you, you didn't know he was
22 needed out there to do those things
23 out west; right?

24 A. Truthfully, I didn't really
25 give it a thought.

1 Q. And so, at some point,
2 actually, you didn't call Colonel
3 Evanko. Colonel Evanko called you
4 and told you that Darrell Ober's
5 coming back to the Bureau.

6 A. I don't know that Colonel
7 Evanko did that. I'm pretty sure
8 that it was probably Colonel Coury
9 let me know. I mean, I just didn't
10 deal directly with the Colonel on a
11 regular basis. I dealt with my
12 supervisor normally.

13 Q. Yes, sir. Okay. So it's
14 Colonel Coury, but the fact is, you
15 didn't originate that call because
16 you didn't know it was coming. It
17 came from the front office; am I
18 right?

19 A. You know, I'm assuming it came
20 from the front office, but I don't
21 know. I may have called and got into
22 that conversation, but he very easily
23 could've called me and gave me
24 directions at the same time. I just
25 don't know.

1 Q. Well, then you didn't
2 originate it, at least the knowledge
3 of it. It wasn't something you
4 requested. You didn't request him to
5 go to Washington, you didn't request
6 to have him come back. Somebody told
7 you, he's coming back, and there was
8 some kind of discussion where
9 eventually you say, I don't really
10 want this guy back or something to
11 that effect; correct?

12 A. That's accurate.

13 Q. Yes. And, you know, whether
14 you felt strongly enough about it or
15 whatever happened in the discussion,
16 which, you know, you've testified you
17 don't recollect the details of the
18 discussion --- hold on just one
19 second. During this discussion,
20 whatever it was, you expressed the
21 opinion and Colonel Evanko apparently
22 would not agree and said, he's got to
23 come back there. Did he in fact say
24 to you, you know, I told him I would
25 send him back there for a while, I

1 told him I'd send him back, that was
2 part of an agreement I had?

3 You had indicated earlier that
4 it was Captain Ober who told you
5 about that, that you believed it was
6 Captain Ober who told you that that
7 was a stipulation or agreement, you
8 used the word stipulation.
9 Obviously, you can't stipulate with
10 the Colonel because if you do, he's
11 going to stand by his word, which
12 apparently he was doing. You've also
13 offered that you had recommended that
14 when Captain Ober was to be sent back
15 to BPR that you objected, you didn't
16 want him. Now, my question is a very
17 simple one. Did Colonel Evanko tell
18 you why he was insisting Captain Ober
19 be sent back to BPR? Because you
20 disagreed with that and, in a nice
21 way I'm sure, you said, you know, I
22 don't want this fellow back here.
23 A. He told me or I was told that
24 Captain Ober was advised that after
25 he finished his assignment he was

1 going back to BPR. Simple as that.
2 He had given that man his word and
3 that's why he came back.

4 Q. But he hadn't told Captain
5 Ober that yet, had he? Because you
6 were the guy that told Captain Ober
7 he was going to Washington.

8 A. Whoa, we're talking about two
9 different things, sir. Your question
10 to me, and so maybe I answered it
11 incorrectly, your question to me was
12 through my discussion with the
13 Colonel over my objections, he sent
14 him back to BPR. And my answer to
15 that is yes and he told me why he
16 sent him back to BPR. And that was
17 that he had promised him he was
18 coming back, he gave his word. Now,
19 what happened after that, I don't
20 know. I don't have a clue why he was
21 sent to Washington.

22 Q. Who was the person who
23 informed Captain Ober he was going to
24 Washington?

25 A. I believe that was me.

1 Q. Yes. And did Captain Ober
2 know, when you told him he was going
3 to Washington, that he was going back
4 to BPR for four days?

5 A. I would suppose so. I don't
6 know.

7 Q. You don't know?

8 A. I don't know. I would suppose
9 so. I need some paperwork and I will
10 figure it out for you, but I don't
11 know.

12 Q. Now, when you called Captain
13 Ober to tell him he was going to
14 Washington, did you tell him he was
15 to report to BPR for four days?

16 A. What I recall telling Captain
17 Ober was that he was going to be the
18 --- transfer through to Washington to
19 be the XO for the Area Three
20 Commander. I think he may have asked
21 me why and where and the effective
22 date, I don't recall. But I told him
23 --- I probably did tell him the
24 effective date. I would assume I
25 did, I just don't know. And I think

1 he might have asked me for the
2 duration of his assignment. Again, I
3 did not know. I knew it was to
4 assist the Area Commander in
5 preparation for the National
6 Government's Association out there.

7 Q. Do you remember what day you
8 called him, Captain Ober?

9 A. No, sir.

10 Q. He indicates to me that you
11 called him on January 10th. Does
12 that make sense?

13 A. I don't know. I'm at your
14 mercy, you give me a date and I don't
15 know. No, seriously, I'm at your
16 mercy. If you say so.

17 Q. All I want to test here is
18 your recollection. I don't have a
19 document on that one and I'd help you
20 if I could. His indication is that
21 you called him on January 10th. I
22 don't know, as I sit here right now,
23 other than his testimony if I would
24 have any documents in support of
25 that. I want to ask you this. At

1 the time that you called him, was he
2 still at IIMS or was he back with the
3 Bureau? You would know that.

4 A. Captain Ober never reported
5 back to the Bureau. He came in after
6 hours to collect his things. I only
7 know that because one day they're
8 there and the next day they're not.

9 Q. Okay. Just give me a second
10 here.

11 A. Do you want this?

12 Q. No, sir, the Mark Campbell
13 paper. Here's a sentence in here.
14 With your concurrence I'm downgrading
15 the legislative liaison position from
16 major to captain, I have designated
17 Captain Simmers (phonetic), the
18 acting director, effective when Rick
19 retires on the 7th until we can talk.
20 Do you have a recollection of whether
21 Captain Ober knew that he was going
22 to be transferred for four days to
23 BPR before his transfer to Washington
24 would be effective?

25 A. No, sir. I knew it would be a

1 short period of time and it ended up
2 being a short period of time. Does
3 that answer your question?

4 Q. Yes, I think it does. In
5 other words, you're not sure, you
6 don't know?

7 A. No, I don't.

8 Q. No, you answered it. Now, do
9 you now have a recollection of any
10 investigation into Captain Ober about
11 museum artifacts?

12 A. I'm aware of an inquiry.

13 Q. How did you become aware of
14 it?

15 A. I believe Lieutenant Colonel
16 Coury sent a complaint sheet over,
17 which indicated that perhaps Captain
18 Ober was taking possession of
19 historical things that may have been
20 intended for the museum, but he was
21 taking personal possession of it.
22 And there was a written complaint by
23 one of our retirees.

24 Q. Philip Conti?

25 A. Yes, sir, I believe that's

1 correct.

2 Q. Now, did you look at those
3 documents? Because I looked at them
4 and I don't see them indicating that
5 --- I just don't see anywhere where
6 they indicated that there was any
7 allegation, aside from Mr. Conti's
8 unhappiness, that there was any
9 underlying allegation about Mr. Ober
10 misrepresenting anything. Do you
11 remember any complaint from a citizen
12 or someone else, which indicated that
13 Mr. Ober misrepresented who he was?

14 A. As I recall it, the retiree
15 was communicating the concerns of
16 other individuals that this may be
17 occurring.

18 Q. Mr. Conti?

19 A. Yes. And I don't know that
20 --- as a matter of fact, I'm positive
21 that that investigation didn't go
22 anywhere.

23 Q. Yes, I am, too. I'm just
24 wondering what spawned it, why it was
25 done. That's my next question.

1 A. Well, I guess the problem with
2 that is that Mr. Conti wrote us a
3 letter and when we get written
4 correspondence and allegations, we at
5 least take a look at it, unless we
6 see on the face there's just
7 absolutely nothing there.

8 Q. Well, that's what I saw when I
9 looked at it. I saw Mr. Conley's
10 concern, he had a very vested
11 interest, had absolutely no contact
12 with Captain Ober at all. I looked
13 at the underlying documents and I
14 found that a Lieutenant Colonel in
15 the Pennsylvania State Police is
16 having Mr. Ober investigated and I
17 can't figure out why. And that's
18 what I'm asking you. Why? The
19 reason I'm asking you that, so you
20 know where I'm going, is because, you
21 know, you talk about --- what sounded
22 to me like a concern that Captain
23 Ober was overly zealous in
24 investigating things or overdoing
25 things somewhat.

1 And I looked at this thing and
2 I couldn't see the basis for it. I
3 saw the letter from the lady that
4 came in that supposedly caused this.
5 I didn't see any indication that
6 Captain Ober misrepresented anything.
7 But I did see Mr. Conti's letter. It
8 certainly was a matter of concern, it
9 just wasn't based on anything, but it
10 was certainly a matter of concern
11 from him.

12 A. Well, we still have to respond
13 to those things. You have to
14 document. If we don't document,
15 somewhere along the lines we get
16 problems. Sometimes some things are
17 not documented that should be
18 documented and then, of course, given
19 the right opportunity we try to
20 document those things. And this was
21 probably something, if I remember
22 correctly, there was probably several
23 complaints where Mr. Conti or retired
24 Colonel Conti had made those
25 allegations. It was time to put it

1 to bed, if you will, put it to rest.
2 To say either there's something there
3 or there's not anything there.

4 Q. Here's what I have a problem
5 with and here's my question. The
6 idea is the Federal Bureau of
7 Investigation comes, they express a
8 concern about possible corruption
9 that might reach up the line
10 somewhere, governor's office, upper
11 part of the State Police. Captain
12 Ober is expected to go and tell
13 people in his chain of command who
14 might potentially be subjects or
15 targets of the investigation, that's
16 pretty clear. If he doesn't do that,
17 he's investigated and it's disloyalty
18 and it's whatever. But we get a
19 letter in from a retiree, the BPR's
20 opened up, a number's assigned,
21 nobody just goes and sits down with
22 Captain Ober or calls him up and
23 says, you know, Phil's made these
24 complaints, are you representing or
25 misrepresenting things. And it's put

1 the bed right there. What's the
2 difference? Is there a different
3 standard here?

4 A. You correct me if I'm wrong,
5 sir, but I did not believe that was a
6 full investigation. That was the
7 inquiry, supervisory inquiry, where a
8 question was asked here and a
9 question was asked there and if
10 there's nothing to substantiate that,
11 then it's put to bed. But I don't
12 have that report. I don't have an
13 opportunity to look at that or lean
14 on that, so ---.

15 Q. Which one was not a full
16 investigation? The one at the fall
17 of '98?

18 A. No, the one involving
19 Lieutenant Colonel Conti.

20 Q. The one in the fall of '98 was
21 a full investigation; right?

22 A. I don't know. I have to look
23 at it. I'm assuming it was.

24 Q. You said you looked at it.

25 A. There was one --- I didn't say

1 I looked at it. I said if I remember
2 correctly, the one involving Conti
3 made an allegation on behalf of a
4 woman, I don't believe there was a
5 full investigation on that. And you
6 can prove me wrong and I'll stand
7 corrected, but I don't think there
8 was.

9 Q. I think there was.

10 A. Okay.

11 Q. There was a BPR number,
12 there's a guy named Murgich
13 (phonetic) who did the investigation.

14 A. And you're right. I'm sure
15 there's a number, we put a number on
16 all of those and it's for tracking
17 purposes, you know ---. Some of them
18 are short investigations, if you
19 will, and some of them are very
20 lengthy and involved.

21 Q. Well, I think there was an
22 investigation. I think it was
23 unfounded. Isn't a trooper told or
24 excuse me, isn't a member told when
25 they're investigated if the

1 investigation leads no where? Aren't
2 they supposed to be informed?

3 A. If there's a personnel
4 investigation and Captain Ober or I
5 become the subject of a personnel
6 investigation, that's where this
7 allegation of misconduct or the
8 administrative or law-wise or a self-
9 initiating incident, and those would
10 be those things where we get the fist
11 fights, people injured and taken to
12 the hospital. But we're always told
13 if there is a investigation, we're
14 always told the result of that
15 investigation. The only difference
16 with those cases would be if the
17 Commission or a special invest ---
18 let me look into it, tell me what
19 happened, I want the facts. We don't
20 give guys notice of the
21 investigations then and we don't tell
22 them the results of them because
23 that's not his business.

24 It's the boss' business, what
25 he wants, and if he has to look at

1 those facts, review those facts, he
2 may see some allegation of misconduct
3 or something that you really think
4 there is misconduct. Then he, in
5 fact, orders a personnel
6 investigation. That's conducted, the
7 guy's given a heads-up, this is
8 coming, and when it's all said and
9 done he's given the results whether
10 it was founded, unfounded, not
11 sustained or their action was
12 justified if it's involving a self-
13 initiated incident. That's in the
14 rules. That's written in black and
15 white and if we don't do that, the
16 Union, the PST will hold us
17 accountable or on the other side,
18 AFSCME, they'll hold us accountable.
19 I mean, we're held accountable. When
20 we don't follow our rules and
21 regulations and don't adhere to the
22 things that we put in effect and the
23 things we agreed to with other
24 agencies or other entities, we're
25 held accountable for that.

1 Q. So the investigation into Ober
2 wasn't an investigation into Ober, it
3 wasn't a full investigation and even
4 though there was a number assigned to
5 it, 1999-503, there apparently was no
6 adjudication because there didn't
7 need to be because it wasn't a
8 personnel investigation.

9 A. I got you now, 503. And I
10 come back to 503 again. Yes, that
11 was not a personnel investigation,
12 that was ordered by the boss to say,
13 what happened here, collect the data
14 and get information. Now, what Conti
15 did, what he requested, that was more
16 personnel related. This guy's making
17 an accusation against Captain Ober
18 and we're saying hey, is there or is
19 there not. Captain Ober, I don't
20 know if he was, but he should've been
21 given notification of that. And if
22 he was not then we're wrong and he
23 should've given the final results or
24 adjudication of that as well. And if
25 he wasn't, then I accept

1 responsibility for that. That's
2 wrong.

3 Q. Okay. Well, let me --- if you
4 could respond to that. You're saying
5 that if there was a regular
6 investigation over the museum thing
7 that Captain Ober should've been
8 informed, there should've been an
9 adjudication and he should've been
10 told. And if not, then you're in
11 error?

12 A. I'm telling you that when
13 there's an allegation of misconduct
14 against you, we always tell the
15 individual. We don't always tell
16 them up front because sometimes you
17 can lose what you're looking for, but
18 that individual's always told that
19 there's an allegation of misconduct
20 or there is some allegation against
21 you.

22 Q. And what you did, or excuse
23 me, and what Colonel Evanko did in
24 the fall of '98 events that you say
25 was not an investigation into Captain

1 Ober, that was not a personnel
2 investigation?

3 A. No.

4 Q. Well, what was the purpose of
5 it then? What did the Colonel need?
6 I mean, aside from talking to the
7 FBI, it's unfounded, being told right
8 out front by Hickes and Ober what
9 occurred, what do you think was to be
10 gained from this investigation?

11 A. He wanted more information.
12 He wanted more data. I mean, to me,
13 that's obvious. I did see the
14 report, if you will, or investigation
15 that Captain Ober submitted, it was
16 all of a page and maybe a quarter. I
17 mean, when I looked at that I
18 suspected he was holding something
19 back because this page only
20 encompasses six months of a look-
21 into, but that's just me. I'm upheld
22 to my opinion as well.

23 Q. Six months of a look-into by
24 whom?

25 A. Well, Captain Ober and the

1 FBI, to my knowledge, had some kind
2 of relationship, from sometime in
3 October of 1998 up until at least May
4 of 1999, so we're talking six months.
5 He gives this report --- he submits a
6 report of his investigation, which is
7 all of --- here, more than this, sir.
8 So I suspected there was something
9 missing.

10 Q. I'm not trying to be funny.
11 What do you want him to do in it,
12 recite poetry in it or write a book
13 or what?

14 A. No, and I respect that, you
15 know ---. But what I'm saying, you
16 know, this guy's been doing something
17 for six and seven months. I mean,
18 he's out there, he's meeting with the
19 FBI, he's at different locations,
20 he's renting hotel rooms, he's --- it
21 doesn't amaze me, he's ordering
22 beverages for the FBI, he's doing a
23 number of different things and that
24 comes in on more than one sheet of
25 paper.

1 He would not --- I know him as
2 a supervisor working at IA, he would
3 not accept that. There's got to be
4 more information there. You've got
5 to put more information than that.
6 I'll put more information I'd just
7 tell him I got in my car, went down
8 the street and come back. And I
9 don't mean to be facetious, but, you
10 know --- it's just to me ---.

11 Q. No. I worked planned
12 protection one time. I remember what
13 it was to fill up reports sheets
14 because we supposed to fill up a
15 report sheet. But here, I'm just
16 wondering what ---?

17 A. And I don't mean to cut you
18 off there, sir. I just don't believe
19 --- it's hard for me to believe that
20 there is six months information in
21 two paragraphs. Is it possible,
22 sure. But I'll tell you what, a lot
23 of time and energy spent there and it
24 just amazes me that that's all I get.
25 I mean, it doesn't even tell me how

1 it occurred, why it got started, who
2 was involved in the investigation, it
3 didn't tell me nothing. As a matter
4 of fact, my thought is at this point,
5 I'm looking at a full and complete
6 investigation of Captain Ober and I
7 don't get that. I get --- I think it
8 was referred to as a supplemental
9 investigation. I can't recall when
10 it came in there, but I tell you
11 what, it was lacking information.

12 Q. What do you think? He had a
13 deal going with the FBI? He and Kush
14 had a conspiracy going against the
15 Commissioner? I mean, what do you
16 think? Seriously ---.

17 A. No, no. You say seriously.
18 Just certain things that I expect,
19 you know ---. When you conduct an
20 investigation, give me an
21 investigation. I mean, hell, half
22 the --- excuse my language. But a
23 sufficient portion of that page is
24 just filled up telling me that I'm
25 Hawthorne Conley and I'm stationed

1 here and this is my assignment and
2 this is when the investigation got
3 started, and this is where I went and
4 that's going to be a quarter of the
5 page right there.

6 I mean, I'm telling you and I
7 don't know if you have that or what
8 have you, but it doesn't tell me
9 anything. I mean, I was disappointed
10 if this was an investigation. But
11 that was me. I look at that and it
12 just caught me totally off guard
13 because I'm looking to see some ---
14 not some voluminous document, but
15 several pages anyway, of what
16 occurred and then, you know
17 --- especially in light of the fact,
18 I know later on --- I don't know if
19 you touched on this or not. I get a
20 request for a reimbursement for a
21 hotel room that he used to have a
22 meeting with the FBI and that's a
23 confidential investigation. Well,
24 his supervisor at that time, Major
25 Waugh, sent it back to me because he

1 said, I don't have a clue what you're
2 talking about, you take a look at
3 this. Is there any validity to this?

4 Well, I knew what was going on
5 at that point, you know --- I said,
6 again now, we have to have
7 investigations or at least numbers,
8 and there was no number on that form,
9 to justify the expenditure of monies.
10 And it didn't occur, unless it was
11 coming in with the report. Well,
12 that report didn't bring me anything,
13 either, you know ---.

14 Q. Well, did you approve the
15 monies that Werts and Williams spent
16 on investigating the fall of '98
17 thing? Did you view those and approve
18 them?

19 A. What money was expended in
20 that, other than your salary?

21 Q. Well, I don't know. Do you
22 know, did you look at it?

23 A. No. There's a real difference
24 between me doing my job on a day-to-
25 day basis and receiving my salary and

1 me doing my job on a day-to-day basis
2 going out there and renting a hotel
3 room to meet with you.

4 Q. Well, we know that Mr.
5 Westcott took an airplane up to tell
6 Mr. Werts, I think it was, that, you
7 know --- flew up in an airplane to
8 tell him that he was supposed to do
9 this investigation into Captain Ober.
10 Who justified that? What was that
11 for?

12 A. I don't know. I don't have no
13 knowledge of that whatsoever. But
14 you know what?

15 Q. What?

16 A. I hold myself accountable and
17 I try to hold those folks who work
18 with me accountable. Sometimes I
19 don't do it as strictly as I possibly
20 can, you know, but that's just my
21 style. But I can account for
22 Hawthorne Conley and I try to account
23 for those people who work for
24 Hawthorne and with Hawthorne Conley
25 as well. And guess what? When those

1 folks work for me, then I expect them
2 to follow rules and regulations.

3 Can they miss one thing here
4 or there, absolutely. If I catch
5 them on it, I try to call them about
6 that and that's what we talk about
7 all day, you know --- whether it's
8 the leaving work early and not giving
9 me a leave slip. Hey, you work for
10 me, boss, come here and talk to me,
11 you know what I mean? If you're
12 doing an investigation, do an
13 investigation and submit a report.
14 Just don't go off on your own
15 tangent, do what you want, make your
16 own rules as you go along.

17 Q. Well, I think --- I'm sorry.

18 A. I'm not done. I am done. I
19 apologize, I am done.

20 Q. That's all right.

21 A. It's just you can't do your
22 own thing in this organization.
23 There's rules and regulations. And I
24 guess you're talking about rules and
25 regulations and what I've heard from

1 you so far, everyone has adhered to
2 those rules as written, with the
3 exception of Captain Ober.

4 Q. Well, how did he violate them?

5 A. Well, you know what. First of
6 all --- my opinion?

7 Q. Sure. Quote the rule, tell me
8 the rule.

9 A. The rules say --- you're
10 taught in the academy chain of
11 command, you go to your supervisor.
12 Guess what? So on October 2nd, I was
13 not his immediate supervisor, but
14 guess what? Within hours after of me
15 being notified, I told him if it's
16 not today, buddy, it will be the
17 first thing tomorrow morning. What
18 should I know? What's he give me?
19 He gave me absolutely nothing. You
20 know, I come in there and talk to him
21 the following week. Maybe it wasn't
22 the following week, you've got some
23 information saying otherwise, but we
24 did talk. He gave me absolutely
25 nothing. You said because he talked

1 to Colonel Hickes, well, he should
2 have never gotten to Hickes. He
3 didn't give me an opportunity. He
4 didn't give Hawthorne Conley an
5 opportunity to do his job. I don't
6 ask for much, just let me do that.
7 If I make a mistake, show me I'm
8 wrong. He hasn't done that to this
9 day. He went off and did his own
10 thing, his own way.

11 Q. Why did he do that?

12 A. I don't have a clue. I don't
13 have a clue.

14 Q. I mean, he betrayed the
15 Colonel, he betrayed the Lieutenant
16 Colonel, he betrayed you and he
17 betrayed the Pennsylvania State
18 Police; right?

19 A. I don't know he betrayed
20 anybody. I tell you what, it's not
21 about loyalty, it's doing what's
22 right.

23 Q. What is the regulation?

24 A. The regulation says what was
25 the right thing to do, he should've

1 told his supervisor.

2 Q. Then why didn't you discipline
3 him? Now, this man broke a
4 regulation.

5 A. Let me finish it. All right.
6 Now, this has come to my attention
7 five, six, seven months later. It's
8 out of my control now. The boss will
9 at least take a look at it. He took
10 a look at it and he says, I got the
11 circumstances. You know what, I'm
12 pissed, but he's out of my hair. I'm
13 done with him.

14 Q. Well, why didn't the Colonel
15 discipline him?

16 A. Talk to the Colonel. Ask the
17 Colonel.

18 Q. I'm going to ask the Colonel a
19 lot of questions, but I'm going to
20 ask you today. And I'm not trying to
21 be silly and I'm not trying to be
22 disrespectful, I mean that, I'm not.
23 I'm asking why the man was not
24 disciplined. I'm not asking why it
25 didn't even result in, sir, it did

1 not even end up on as a supervisory
2 notation. Please, sir, let me finish
3 my question.

4 A. Yes, sir.

5 Q. You've been very kind to me
6 and I appreciate it and I mean that,
7 but this is one of the most important
8 questions I think I could ask you
9 today. My understanding is that all
10 of this, everything involved in this
11 thing in the fall of '98, never even
12 resulted in bringing Captain Ober in
13 and sitting him down and saying, you
14 shouldn't have done that. The
15 Colonel never called him in and sat
16 him down and said, you were wrong.
17 The Colonel never even brought him
18 down, you didn't, Lieutenant Colonel
19 Coury didn't, and just said, look,
20 you made an error here and this is
21 the error you made.

22 Here's what I know, sir, as a
23 lawyer. I know that subsection C to
24 AR 1.102 was added sometime in
25 February of the year 2001. And as

1 I've read and studied it, it does not
2 preclude or justify any discipline
3 against Ober. So I look for other
4 things. I honestly, I mean this
5 respectfully, I can't find anything.
6 I'm not trying to inhibit, you know,
7 I'm not trying to impugn your
8 credibility or your knowledge of
9 regulations.

10 I do not know the regulations
11 as well as you people do in the
12 Pennsylvania State Police. I admit
13 that. I could not find one place
14 where Captain Ober did anything but
15 uphold the highest traditions of the
16 Pennsylvania State Police in an
17 extreme circumstance that was almost
18 a no-winner for him. I don't see how
19 he could win. If he goes and tells
20 you and you're either involved, which
21 I'm sure he didn't believe, but
22 whether you or anybody else in the
23 chain of command is involved, he's
24 diming out the FBI if they end up
25 justifying some investigation, which

1 nobody knows. Maybe this is an error
2 or not, I can't find any regulation
3 that prescribes it.

4 He goes to Lieutenant Colonel
5 Hickes --- and he's coming in here,
6 we're going to be able to question
7 him, too. I don't know. Where I'm
8 coming from with this question, I
9 don't know what he did wrong, what
10 Captain Ober did wrong. My bottom
11 line question is very, very simple.

12 Aside from personally
13 offending his leaders, which is clear
14 that that happened --- aside from
15 personally offending his leaders,
16 what regulation, practice or custom
17 of the Pennsylvania State Police did
18 Captain Ober violate? I honestly can
19 not find any, I don't know of any and
20 I'm asking you if you know.

21 A. You know, it's an accepted and
22 common practice with the Pennsylvania
23 State Police that you keep those
24 people above you in your chain of
25 command informed of what's going on.

1 That's taught from day one in the
2 Academy. You want to go back and
3 check the first one, we could do that
4 as well. I think you quoted
5 subsection 101 and that talks about
6 chain of command and what have you.
7 And I'm sure that was put in place
8 for another reason. It certainly
9 wasn't put in a public place for
10 Captain Ober, I can tell you that for
11 sure.

12 Q. How do you know that for sure?

13 A. Because, you know, if we had
14 another individual get involved in
15 the same thing, insubordination and
16 things on that line. But, you know,
17 this is paramilitary organization and
18 as Colonel indicated in testimony a
19 week ago, we've maybe gone from the
20 para --- from a military-based
21 facility 100 percent now in the
22 things we have to do, you know ---.
23 And you have to be able to trust the
24 people you work with and for them to
25 trust you. If they can't, perhaps

1 you're in the wrong business here.

2 But, you know, for him not to
3 have done that, and forget about me
4 personally, it's not about me
5 personally. It's about whoever had
6 my position. I mean, I guess the
7 question is had this individual who
8 --- had I have come from Erie or I'd
9 come in from Punxsutawney and had
10 Stanton not been in my chain of
11 command somewhere along the line,
12 would he have done the same thing? I
13 don't know.

14 You know what, I went to that
15 office trying to be fully open with
16 this individual. I said, hey, this
17 is who I am. I know you wanted this
18 job, you didn't get it, all right,
19 unfortunate, you know --- that's not
20 the first time things like that
21 occur. There have been many
22 positions that I've wanted and I
23 haven't gotten also. But, you know
24 what, let's try to work this thing
25 together. I know you've been doing

1 it for the last couple of months, but
2 we can work together. What do I need
3 to know? And he never told me what I
4 needed to know. I mean, he didn't
5 even give --- before, as I think
6 about this, and you correct me if I'm
7 wrong, he didn't even talk to Hickes
8 about this at this point because he
9 couldn't.

10 Q. He sat on it a few days.

11 A. Absolutely, he did. And he
12 says, I'm not going to Conley for
13 whatever reason it be. That was
14 wrong. He should've never went
15 around Conley. You know what,
16 because the regulations in AR 45
17 says, you know what, you shall report
18 this thing. Now, if you suspect that
19 I'm the target now, now you can go
20 around me. I don't have a problem
21 with that. And he has never
22 articulated that I'm part of this.
23 Because that man worked for me
24 doesn't mean anything, you know ---.
25 I'll put a racial issue into it as

1 well, you know, because Kip Stanton's
2 a black man and folks believe ---.

3 Q. I didn't know that.

4 A. Well, he's a black man. Let
5 me tell you something. Because he's
6 a black man, there's an assumption
7 that I know him. I probably don't
8 know none of those black guys hired
9 in the last ten years in the State
10 Police. There's only 465 of them
11 anyway, so it's a small number;
12 right? Well, back in ---.

13 Q. You don't want to get me
14 started on the Pennsylvania State
15 Police and race.

16 A. Well, anyway, back in 1969 it
17 was ten, I knew all of them. In 1971
18 ---.

19 VIDEOGRAPHER:

20 Excuse me, I'm all out
21 tape. I have to switch, okay?
22 Thank you. It's 2:43 p.m.
23 We're at the end of tape two,
24 deposition of Hawthorne
25 Conley.

1 OFF VIDEOTAPE
2 BRIEF RECESS TAKEN
3 ON VIDEOTAPE

4 VIDEOGRAPHER:

5 Sure. This is tape
6 number three, deposition of
7 Hawthorne Conley. The time is
8 2:44 p.m.

9 BY ATTORNEY BAILEY:

10 Q. I apologize for the
11 interruption, but as I told you, I
12 think you indicated the issue of
13 race. And as I said, you never want
14 to get me started with that issue
15 because you'd probably find more
16 agreement or support than you could
17 ever believe. Tell me why you think
18 that might be an issue.

19 A. Well, let me finish my
20 response. I'm not saying it's race.
21 I'm saying that even if it had been
22 that, that would've been reason to
23 do. But I'm not saying that. I have
24 no reason to believe that Darrell is
25 a racist and he held that me against

1 me, you know --- not even he knew me
2 that knows Kip Stanton. I don't have
3 a clue. I wish he'd just give me
4 some kind of reason why that would've
5 occurred.

6 And you asked the question,
7 why you didn't sit him down. Well,
8 guess what, once I became aware of
9 it, that was gone from me. Why
10 didn't the boss sit him down, I don't
11 know, but I could tell you something
12 else. He wasn't working for the boss
13 either. He was working to this other
14 major. You don't ask guys questions,
15 you don't call them in and ask them
16 questions why an inquiry's being
17 made. You let the inquiry speak for
18 itself at that point. I ain't done
19 yet, now.

20 Q. I'm sorry.

21 A. And I can tell you this. We
22 had this meeting back in whenever me
23 and Darrell sat down and talked about
24 the picture frame and those types of
25 things, I told Darrell he was wrong.

1 I told Darrell I thought he was
2 wrong. And I told Darrell just like
3 I told you right now, he did not give
4 me an opportunity to do my job and
5 whatever response he may have had to
6 me was kind of, well, I don't want to
7 say tough, but that's how it is.
8 Well, okay. And then you have to
9 live with the way it is. If that's
10 how it is, then you have to live with
11 that as well.

12 I mean, this isn't no new ball
13 game we're developing here. This is
14 rules that we play by and regulations
15 say that you shall consult with your
16 superiors. You know what? Maybe it
17 is just as well he didn't because I
18 could be in trouble, too, but maybe
19 not. When I say trouble, sitting
20 over you deposing somebody, saying
21 somebody did you wrong. I don't know
22 that he was done wrong. I don't know
23 that he's been disciplined. Should
24 he have been disciplined, perhaps he
25 should've been. But it didn't happen

1 because, you know --- I haven't found
2 anybody in this organization so far
3 to be that vindictive and let's say,
4 hey, let's move on, let's take care
5 of the situation and go someplace
6 else with it. It's kind of taking
7 care of itself. Can I have some
8 water, got any water over there?

9 Q. We can get some in two
10 seconds. And while you're getting
11 the water, we can break for a second.
12 My next question is going to be ---
13 let me tell where I'm going to go now
14 just very, very briefly and then I'm
15 going to try to wrap this up with
16 you. I'm going to ask you if
17 Darrell, based upon your knowledge
18 and experience with the Pennsylvania
19 State Police --- this is the question
20 I'll ask you after you get some
21 water.

22 A. No, go ahead and ask me now.

23 Q. All right. Given your
24 knowledge and experience with the
25 Pennsylvania State Police, had

1 Darrell informed you of what the FBI
2 was doing, would you have gone to
3 Colonel Evanko and Colonel Coury and
4 reported it to them?

5 A. You know, I don't ---.

6 Q. Knowing what you know today,
7 knowing what you know about what the
8 FBI ---?

9 A. You want me to speculate now?

10 Q. Well, you know, I think it's
11 possible that you could --- your
12 Counsel could raise an objection, I
13 think you could say it's speculation,
14 but, you know, let me tell you why I
15 don't think it is and why it doesn't
16 fit those rules. Okay? You have
17 talked here about what regulations
18 and customs and practices and
19 expectations of what Darrell was
20 supposed to do and what he should've
21 known to do. And you've talked about
22 it at length and it's come into this
23 deposition a number of different
24 times through the hours that we've
25 done it.

1 We talked about discipline, et
2 cetera, we talked about rules and
3 regulations. You have indicated that
4 you reviewed the investigation to
5 some extent, and you have placed on
6 this record a knowledge that at some
7 point you learned that there was an
8 implication that there might be
9 higher ups in the State Police, I'm
10 not sure of your exact words, or
11 there might be people in the
12 Governor's office --- I think I
13 brought that in, I don't think you
14 mentioned that --- that could be
15 involved.

16 So my question is, and I don't
17 think it calls for speculation at
18 all, according to what you know and
19 understand about standards of
20 conducts and customs and practices
21 and the rules of the Pennsylvania
22 State Police, had Darrell Ober
23 informed you on October 5th of what
24 the FBI had brought to him, would you
25 have reported it to Colonel Evanko

1 and/or Colonel Coury?

2 A. Well, there's a couple of
3 things that you're missing there and
4 information I do not have. One is, I
5 don't know exactly what the FBI told
6 Darrell Ober and I don't have a clue
7 what Darrell Ober asked the FBI, as
8 to their investigation. And I think
9 you have to rely on experience to
10 deal with those individuals. And if
11 I put all those things in to play, I
12 may have a different decision than
13 what Darrell Ober had.

14 And it's hard for me to answer
15 those questions because I was asked
16 him, what you got, bud? What you
17 hang your hat on? Just like saying
18 one thing, they take something, all
19 right, who's your informant, you
20 know, give your informant's name, let
21 me know what your informant's talking
22 about, let me hear the interview, let
23 me see the surveillance tapes, let me
24 make my own decision because you are
25 saying that our folks have done

1 something wrong.

2 Well, first of all, I don't
3 believe that things worked that way.
4 Matter of fact, I know things don't
5 work that way. I'm sure you are
6 aware that things don't work that
7 way. Had the FBI had anything --- I
8 said it earlier and I'll say it
9 again, had the FBI had anything on
10 Colonel Evanko, Colonel Coury,
11 Colonel Westcott, the new Colonel
12 Hickes or me or anybody else, they
13 wouldn't have been talking to the
14 State Police at all. They would've
15 zapped us. They would've started
16 talking to the State Police as they
17 were talking to our replacements at
18 our arraignment at some federal
19 court. That's when they would talk
20 to the State Police. And that's just
21 how things work. That's the reality
22 of life and if you don't have that
23 experience then things bite you in
24 the butt later on.

25 Q. Sir, I've seen FBI sit and

1 protect people in the highest reaches
2 of the Attorney General's office in
3 drug usage and everything else
4 because they were friends. I know
5 what the FBI does. I could sit here
6 and give you a discourse for hours on
7 their conduct and abuse of the grand
8 jury system. That's not going to get
9 us anywhere. The issue is this, at
10 one point the FBI had indicated that
11 there might be higher ups. That's
12 the term that's been often used. And
13 they indicated there might be people
14 in the Governor's office. And my
15 question is --- and you had commented
16 that if somebody was a target of an
17 investigation that, you know, you
18 wouldn't inform them. You've already
19 said that. That makes sense.

20 ATTORNEY CHRISTIE:

21 Excuse me, Counsel. I
22 don't think the Colonel said
23 that. I think the Colonel's
24 full answer stands as it
25 should stand on the record,

1 but I think you are asking, as
2 the Colonel's pointed out, for
3 his expertise or his opinion
4 based upon partial
5 information. He's already
6 indicated he doesn't have the
7 full information and he's
8 already indicated that in the
9 real world of criminal
10 investigation and field
11 experience that you don't just
12 take spoon-fed what you're
13 told without checking into it
14 by like talking to the FBI and
15 doing various and asunder
16 other things that a person of
17 field experience would do.

18 That's sort of what I
19 remember him answering, so I
20 think he's already answered
21 the question or I think you
22 basically sort of
23 misrepresented what that
24 answer was to the prior
25 question.

1 ATTORNEY BAILEY:

2 No, I don't think I
3 have. In fact, what I'll do
4 is ---.

5 ATTORNEY CHRISTIE:

6 Or I think I've lost
7 track of everything that
8 you've been saying for the
9 last couple minutes.

10 ATTORNEY BAILEY:

11 And I think that's
12 convenient, with all due
13 respect for you. And I think
14 it's ---.

15 ATTORNEY CHRISTIE:

16 Now, at ten of 3:00,
17 Counsel, I don't think it is
18 convenient because, you know,
19 Colonel Conley was due in at
20 what 9:00, to be followed at
21 11:00 by Colonel Coury. We're
22 now at ten of 3:00, albeit
23 with a bit of a delayed start,
24 our fault, certainly, with
25 regard to part of that delay,

1 but, you know, there's nothing
2 convenient about the --- what
3 should I say? The
4 availability, shall we say
5 extended availability here, of
6 Colonel Conley, as well as
7 Colonel Coury next up, to this
8 time.

9 ATTORNEY BAILEY:

10 Well, let me place ---
11 let me shorten this up. I'll
12 place an objection on the
13 record to your response. I
14 don't feel it's responsive. I
15 don't think there's any
16 difficulty or anything that
17 would've prevented you from
18 answering it at all, aside
19 from not wanting to, which is
20 what I feel and I'm objecting
21 to that. And I'm objecting to
22 your Counsel's comment.

23 Now, let me address the
24 issue of where we are time-
25 wise. These things happen and

1 it happened in Captain Ober's
2 case, it went into a second
3 entire day. Those things
4 happen. Part of the process
5 of litigation and I have done,
6 I think, a yeoman's job of
7 restricting depositions and
8 keeping them limited.

9 ATTORNEY CHRISTIE:

10 Counsel, I'm only
11 answering that ---

12 ATTORNEY BAILEY:

13 I know you are.

14 ATTORNEY CHRISTIE:

15 --- with regard to your
16 comment about my convenience,
17 whatever point ---

18 ATTORNEY BAILEY:

19 I'll withdraw that.
20 I'll withdraw that.

21 ATTORNEY CHRISTIE:

22 --- as if to say we've
23 had a shortened day by
24 frequent interruptions. I
25 think the record would show

1 otherwise. Nobody's talking
2 about your questioning style
3 or length or specificity or
4 anything of that nature.

5 ATTORNEY BAILEY:

6 Okay. Whatever. The
7 point is it's --- what time is
8 it, ten 'til 3:00?

9 ATTORNEY CHRISTIE:

10 Well, now it's seven
11 'til 3:00.

12 ATTORNEY BAILEY:

13 Seven 'til 3:00. Thank
14 you.

15 ATTORNEY CHRISTIE:

16 Time marches on.

17 ATTORNEY BAILEY:

18 Time does and perhaps
19 we're both too loquacious.
20 I'm perhaps being excessively
21 careless in addition to being
22 loquacious. But the point is,
23 what should we do with the
24 time and, you know, I really
25 think I can finish. I'm about

1 at my end. I want to visit
2 with my client. That question
3 was really going to be near
4 the very end of what I was
5 going to do, essentially based
6 upon the Colonel's --- partly
7 on the comments that he's not
8 familiar with the museum
9 investigation, which helps
10 shorten quite a bit of my
11 area. I want to go out with
12 Captain Ober, but I want to
13 ask you, what do you want ---.
14 Do you want to continue with
15 Lieutenant --- I don't see how
16 we can get Colonel Coury done
17 today.

18 ATTORNEY CHRISTIE:

19 We'd like to keep
20 going. Colonel Coury is not,
21 as none of us are, easy to get
22 a hold of. We've got him here
23 now and we don't want to
24 imprison you or anything, but
25 if that's not a problem with

1 you, Colonel, we'd like to
2 keep going.

3 ATTORNEY BAILEY:

4 All right. Well, let
5 me go outside with Captain
6 Ober and I'm just going to go
7 ahead and let the equipment
8 run because we're only going
9 to be about 30 seconds, I
10 think. Is that okay?

11 ATTORNEY CHRISTIE:

12 Sure. That's fine.

13 ATTORNEY BAILEY:

14 See if we can finish
15 you up and we'll get on with
16 Colonel Coury, which is fine
17 with me. Now, that's probably
18 going to probably take us well
19 after six o'clock or into the
20 evening. Is that okay,
21 Colonel?

22 COLONEL COURY:

23 Yes.

24 ATTORNEY BAILEY:

25 Okay.

1 BRIEF RECESS TAKEN

2 BY ATTORNEY BAILEY:

3 Q. Let me tell you a problem we
4 have. Actually two problems, the one
5 I'm aware of on my own part because
6 of the litigation that's currently
7 going on in Lebanon County and Sam
8 Stratton (phonetic) is doing a trial
9 down there. But also Captain Ober
10 indicates that he has to be gone no
11 later than 5:00. What time do you
12 have to leave here, by 5:00 at the
13 latest? Let's finish up. Let's just
14 end. We're okay --- I think I'm done
15 with Colonel Conley. Let's start
16 with Colonel Evanko (sic), let's see
17 where we are at 5:00. A lot of it
18 will depend on how concise he is with
19 his answers.

20 ATTORNEY CHRISTIE:

21 Colonel Coury is here.

22 ATTORNEY BAILEY:

23 I mean Colonel Coury,
24 I'm sorry. And then let's
25 just end at 5:00. If we have

1 to continue at that point,
2 we'll pick it up at a
3 convenient time for you later
4 on. Okay, Colonel? Actually,
5 a break in a deposition, if
6 I'm a witness, I'd prefer it
7 because it gives me, you know
8 --- it's tough being a
9 witness. I think we can do it
10 that way. So if there's no
11 objection, let's just go,
12 okay?

13 ATTORNEY CHRISTIE:

14 That's fine.

15 ATTORNEY BAILEY:

16 Okay. At this stage,
17 can we end the deposition with
18 Colonel Conley?

19 VIDEOGRAPHER:

20 It's 2:57 p.m. The
21 deposition of Hawthorne Conley
22 is concluded. Thank you.

23 * * * * *

24 DEPOSITION CONCLUDED AT 2:57 P.M.

25 * * * * *

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF DAUPHIN)

3 C E R T I F I C A T E

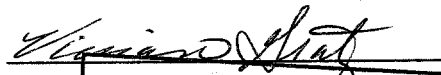
4 I, Vivian Gratz, a Commissioner of Deeds in and
5 for the Commonwealth of Pennsylvania, do hereby
6 certify:

7 That the witness was hereby first duly sworn to
8 testify to the truth, the whole truth, and nothing
9 but the truth; that the foregoing deposition was
10 taken at the time and place stated herein; and that
11 the said deposition was taken stenographically by me
12 and reduced to typewriting, and constitutes a true
13 and correct record of the testimony given by the
14 witness.

15 I further certify that the reading and signing
16 of said depositions were (not) waived by counsel for
17 the respective parties and by the witness.

18 I further certify that I am not a relative,
19 employee or attorney of any of the parties, nor a
20 relative or employee of counsel, and that I am in no
21 way interested directly or indirectly in this action.

22 IN WITNESS WHEREOF, I have hereunto set my hand
23 and stamp this 19 day of April 2002.

24
25

VIVIAN GRATZ
Commissioner of Deeds
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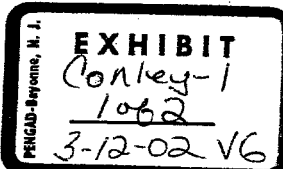
go any further - I will fix it, my way. That's what I explained to Captain OBER, and the other members of this Bureau, repeatedly.

WILLIAMS: Describe your feelings to me, now that you can reflect back on this, as to how you feel in that Captain OBER never informed you of this investigation and you're the Bureau Director. Tell me how you feel about that.

CONLEY: Oh, well I'll tell you, I'm very disappointed, and this has been an ongoing problem since I arrived in the Bureau in October. I made my boss aware of it and I've attempted to work it out. Because OBER's a Captain with the Pennsylvania State Police, I try to give him a wide girth and let him do what was necessary to get his job done. However, we have continuously failed to communicate effectively.

An example of that is in the old office, our offices were side to side, side by side, and he may want to take the afternoon or take a couple hours off in the afternoon, rather than coming and tell me that initially, he would drop a leave slip in my "IN" basket and then leave the office. I had to call him on that and tell him that it was not a big deal, however, we work in the same office - he can talk to me. I may or may not look in my "IN" basket for the rest of that day, and unless he tells me he's leaving that building, I assume he's in that day. This was something that we talked about early on. I don't have a lot of documentation on that because he is a Captain and I try to avoid that. This is just indicative of something that's been going on for a long time and its just about hit its peak now.

We had a conversation just before he left. He was detached to the Bureau of Technology Services, where again, I thought at this point we had reached a level where we could communicate, but I've



Interview/Major Harlan N. CONLEY, on 06/08/99
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about had it with him, personally. I've really had it with him.

WILLIAMS: Is it the policy of your Bureau to allow a member to rent a hotel room in order to interview somebody concerning an investigation? Is that Bureau policy?

CONLEY: There's no Bureau policy written on that, but I don't know that we've ever done that in the past. I returned to the Bureau in October of 1998, but I've served in the Bureau from 86 until 93, and there were occasions when, as an investigator or as a commander within the Bureau, when there was a need to be uh, conducting investigations separate from State installations, State Police installations, and we've done that by making arrangements by going to a State office building and taking a free office, or if it was appropriate, we might conduct the interview several Troops away. We have not, to my knowledge, ever rented a hotel room for interview purposes. I'm not saying that we would never do that, but we would have to discuss it first.

WILLIAMS: And this was not, the rental of this room, which occurred on whatever date it was. . .

CONLEY: I think it was March 15th, 1999.

WILLIAMS: The rental of this room was never discussed with you as the Bureau Director, is that correct?

CONLEY: That's correct. I didn't learn, I never learned of the rental of this room until just recently when I returned from New York, when a General Invoice came into us, into the Bureau, wanting to know how to handle it. That was forwarded to us from the fiscal officer in the Bureau of Staff Services on June 1st.

